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UNION OF SOUTH AFRICA.

MINUTES OF PROCEEDINGS

WITH

ANNEXURES

(SELECTED)

OF THE

South African National Convention

HELD AT

Durban, Cape Town and Bloemfontein.

12TH OCTOBER, 1908, TO 11TH MAY, 1909.

Printed and published pursuant to a Resolution of the House of Assembly, dated the 28th November, 1910.

CAPE TOWN:
CAPE TIMES, LIMITED, GOVERNMENT PRINTERS.
1911.

SITTINGS OF THE CONVENTION.

At DURBAN, from 12th October, 1908, to 5th November, 1908.

At CAPE TOWN, from 23rd November, 1908, to 18th December, 1908, and 11th January, 1909, to 3rd February, 1909.

At BLOEMFONTEIN, from 3rd May, 1909, to 11th May, 1909.

JQ
1915
1908
A15

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EXPLANATORY NOTE.

Preliminary.

The Minutes of the proceedings of the South African National Convention are printed in accordance with a resolution adopted by the House of Assembly on the 28th November, 1910.

The undersigned, requested thereto by the Government, undertook to superintend the publication of the Minutes, a task which involved, in addition to seeing the actual manuscript through the Press (1) the arrangement of the Minutes in an intelligible and convenient form, and with necessary notes and references (2) a careful scrutiny of the annexures in order to ascertain which should be published (3) the collection of data connected with the Convention, but not included in the Minutes (4) an extensive revision and adaptation of the Dutch version and (5) the compilation of an index.

It may be useful to trace in a few words the steps which led up to the Union of South Africa, to place on record the procedure adopted by the Convention and to explain the method of arranging the contents of this volume.

Steps towards Union.

Though the South Africa Act is the fruit of the deliberations of the South African National Convention, the seed which gave it birth was sown on the 5th May, 1908, when the Inter-Colonial Conference by the adoption of a series of resolutions took the first practical step towards setting in motion the necessary machinery for the accomplishment of the union of the South African Colonies.

These resolutions which are printed at the end of this volume [Appendix A], not only reaffirmed previous declarations in favour of union, but actually paved the way for the meeting of a National Convention by defining its constitution and fixing the representation of each Colony as well as the method of voting. It was further agreed that Rhodesia "shall be entitled to admission at such time and on such conditions as may hereafter be agreed upon."

The resolutions were subsequently confirmed by the Parliaments of the four South African Colonies in the terms set out in Appendix B and delegates to the Convention were appointed as indicated in Appendix C.

The Government of Southern Rhodesia was subsequently invited (through the Prime Minister of the Colony of the Cape of Good Hope, who acted as the channel of communication in the matter), to send representatives to the Convention: these representatives were given the right to speak, but not to vote. Three representatives were accordingly appointd by His Honour the Administrator, with the advice of his Execu-

tive Council, on the 2nd October, 1908 [Appendix D] and attended the sittings of the Convention.

The first session of the Convention was held at Durban, the second at Cape Town and the third or final session at Bloemfontein. At the conclusion of the second session, on the 3rd February, 1909, the Convention submitted its first report, with a Draft Act attached [Appendix F]. This report was considered by the four South African Parliaments in sessions specially summoned for that purpose in April, 1909, and resolutions and amendments were adopted by them as set forth in Appendix G.

In the Colony of Natal, in addition to the resolutions and amendments referred to, the question whether that Colony should enter into union in terms of the Draft Act (subject to amendment at the forthcoming session at Bloemfontein) was referred for decision to the electors, and a Referendum Act was passed in the same session providing for the ballot, the result of which is given below.

In pursuance of the recommendation contained in the above report, it was decided at the conclusion of the April Parliamentary sessions to convene a sitting of the Convention at Bloemfontein to consider the resolutions and proposed amendments referred to [Appendix G]. The Convention accordingly met there on the 3rd May, 1909, and on the 11th of that month submitted its second and final report [Appendix H] with the Draft Act as finally approved.

The Parliaments of the Cape of Good Hope, the Transvaal and the Orange River Colony met on the 1st June, 1909, and adopted resolutions and addresses respectively approving of the Draft Act, and requesting His Majesty the King to cause the necessary steps to be taken for the authorisation of the proposed union [Appendix I]. Delegates were at the same time appointed by these Parliaments to proceed to London in connection with the passage of the Draft Act through the Parliament of the United Kingdom. [Appendix J].

Immediately after the conclusion of the Bloemfontein session of the Convention, a proclamation, dated the 14th May, 1909, was issued by the Governor of Natal, fixing the 10th June as the date for the taking of the referendum. The ballot resulted in a vote of 11,121 in favour of, and 3,701 against, Union—a majority of 7,420. The Natal Parliament met on the 16th June and adopted resolutions [Appendix I] similar to those agreed to by the other South African Parliaments, but with the modifications rendered necessary by the passing of the Referendum Act and the decision of the electors thereunder.

The delegates proceeded to London and there, in consultation with the Secretary of State for the Colonies, agreed to certain further amendments in the Draft Act prior to its introduction into the Parliament of the United Kingdom; these amendments are set out in Appendix K. The Draft Act, so amended, was then introduced into the

House of Lords, passed through both that House and the House of Commons without further amendment and received the assent of His late Majesty King Edward VII. on the 20th September, 1909. The Act of Union as assented to is printed as Appendix L. A proclamation, dated the 2nd December, 1909, was subsequently issued by the late King declaring the 31st May, 1910, as the date of the establishment of the Union.

It may be added that in terms of the powers conferred upon them on their appointment the delegates consulted with the Secretary of State for the Colonies as to the Royal Instructions to be issued to the Governor-General, and these were promulgated in the Union *Gazette* of the 31st May, 1910. The delegates further, in accordance with their instructions, and in consultation with the chairman and officers of the Proportional Representation Society in England, drafted for the guidance of the South African Governments rules and regulations providing for the first election of Senators according to the principle of proportional representation. These rules and regulations after amendment were published in the *Gazettes* of the various Colonies prior to the date fixed for the election.

Procedure by Convention and arrangement of this volume.

The procedure followed by the Convention was first to adopt a series of resolutions on the subjects which were subsequently to be incorporated in a Draft Act. This occupied their attention until the 18th December, 1908. On the same day a Committee was appointed [page 143] for the purpose of preparing a Draft Act embodying these resolutions the Committee being also instructed to frame amendments in the wording and where necessary to suggest amendments of the substance of the resolutions. As all the resolutions referred to the Drafting Committee are clearly set out in the Minutes at the stage at which they were adopted from time to time, no good purpose would be served by publishing them separately in the form of an Appendix to this volume.

When the Draft Act was brought up by the President as Chairman of the Drafting Committee on the 12th January, 1909, it was not complete as no resolutions dealing with finance and railways had at that stage been adopted by the Convention. Resolutions dealing with these matters were, however, subsequently submitted by the Finance Committee, and will be found on pages 155-159 of the Minutes. These resolutions, after amendment by the Convention, were adopted and referred to the Drafting Committee [page 190], and the clauses, framed by the Committee thereon, were subsequently brought up and incorporated in the Draft Act, in which they are indicated as Finance Clauses.

The Draft Act as brought up contained a number of departures from and additions to the resolutions. In the case of

the Drafting Committee (as in that of every other Committee appointed by the Convention) no record was kept of its proceedings, and it is therefore impossible to establish in what manner the various alterations and additions were made or by whom they were proposed. On the draft prepared by the Committee departures from the resolutions were shown as follows: words added were underlined, general alterations were indicated by a side line, new matter being described as such. Where omissions were made from the resolutions a caret was placed, but the actual words omitted do not appear. In view of the decision not to publish as an Appendix the resolutions referred to the Drafting Committee, and seeing, moreover, that the actual words omitted from these resolutions were not shown in the Draft Act, thus rendering the indication of the departures by the Committee from the resolutions incomplete, it has been decided to eliminate all indications of such departures. The full text of the Draft Act as prepared by the Committee and subsequently considered clause by clause by the Convention is, however, printed as Appendix E.

The Convention commenced the consideration of this Draft on the 13th January, 1909, but it was not incorporated in the Minutes, nor were clauses shown in full when under consideration, and only in case a clause was amended to any considerable extent was it repeated as finally agreed to. This omission has been cured, however, by printing the Draft as Appendix E, the numbers of clauses therein indicated being identical with those referred to in the Minutes.

Advisers, who also acted as draftsmen, attended the Convention to assist in the framing of the Draft Act, and on the 22nd January the Prime Ministers were instructed by resolution to have the Draft Act revised by their respective draftsmen jointly [page 195].

The Drafting Committee brought up a report on the 23rd January [pages 200-206] proposing additional amendments and new clauses which were considered by the Convention; from time to time further amendments were made and certain clauses referred back to the Drafting Committee; and on the 26th January the whole of the Draft Act was referred back to the Committee with power to make such alterations in the phraseology as might be necessary to make the meaning clear [page 219].

Meanwhile the advisers, having gone through the Draft Act, submitted a joint report to the Prime Ministers, in which they suggested further amendments. This report was laid before the Drafting Committee, and on the 28th January the President, as Chairman, intimated to the Convention that the Committee had agreed to a number of these amendments [page 224], which were thereupon put and agreed to and the Draft Act amended accordingly. In the original Minutes these amendments are recorded as a schedule at the end of the day's proceedings, but to facilitate reference and preserve

uniformity they have been incorporated at the stage at which they were considered by the Convention. Although, as stated above, these amendments had already been agreed to in anticipation by the Convention, the report thereon was formally brought up only on the following day, when the Committee suggested still further amendments which were subsequently also adopted by the Convention.

At this stage the Draft Act had been printed and copies were laid before the Convention on the 29th January [page 229] subsequent prints being submitted on the 30th January [page 236], and on the 1st February [page 239]. From the time of the setting up of the Draft Act in print the numbers of clauses in the original draft were no longer quoted in the Minutes, and, consequently, when further amendments were made the numbers of the clauses referred to were those appearing in the particular print under consideration. It would be incurring unnecessary duplication to reproduce *in extenso* these various prints, but, as the numbers of the clauses therein differ materially from those in the original draft, the numbers of the corresponding clauses in the original draft have been placed in brackets after the numbers recorded in the Minutes. Where no such numbers appear the clauses concerned are entirely new.

When the Convention reassembled at Bloemfontein a printed paper containing the resolutions adopted and amendments suggested by the various Parliaments was laid upon the Table and circulated amongst members [Appendix G]. No amendments had been put forward by the Transvaal Parliament, but Gen. Smuts gave notice of some on behalf of the Transvaal delegates, and these have been incorporated in the Minutes [pages 251-253]. All the amendments submitted were considered, and the Draft Act, having been further amended, was printed with the second and final report. The amendments adopted at the Bloemfontein session are fully set out in this report and as the final draft is, except for these amendments, identical with the one originally agreed to at Cape Town, it has been decided to print the report only. [Appendix H].

The original records of the Convention are bound in manuscript in five volumes as stated on page xxii. These volumes were laid upon the Table of the House of Assembly on the 28th February, 1911, and are in the custody of the Clerk of the House. A complete list of the actual annexures to the Minutes will be found on pages xv to xxii, showing those not printed, those originally incorporated in the Minutes, and those appearing in this volume as appendices.

It is naturally impossible to note here every detail in connection with the preparation of this volume, but it may be mentioned that, in addition to those already indicated, the following further alterations have been made:

(a) In the original record, Order Papers appeared at the end of each day's proceedings, but as the notices and

orders contained therein are with a few exceptions embodied in the Minutes, these Order Papers have been omitted. In the case of the exceptions, reference was made in the Minutes to pages only of the Order Paper on which motions or amendments appeared, but all such motions and amendments have also been embodied in detail in the Minutes.

(b) No record was made of the fact that various prints of the Draft Act were from time to time laid before the Convention, and the Minutes have been amended in this respect.

(c) On resumptions of debate on motions, consideration of reports and clauses of the Draft Act the numbers of the pages on which the original matter appeared have been inserted.

(d) Where reports were brought up the wording has as far as possible been made uniform throughout.

(e) The term "Order of the Day" which was inserted in some cases but not in others has been omitted throughout the printed record.

(f) Explanatory footnotes have been added wherever convenient.

While the business of the Convention was undoubtedly greatly facilitated owing to the fact that it was conducted in a somewhat informal manner, the preparation of this volume was thereby rendered much more difficult and the compilation of an elaborate index made necessary; but, although the work involved considerable rearrangement and some amplification, no material detail has been omitted, nor has the text or sense been affected in the slightest degree. Consequently where it was found impossible to verify the facts in order to remove anomalies the original record has been left unaltered.

In conclusion, I desire to place on record my appreciation of the valuable assistance rendered to me in the execution of this work by the following members of my staff, viz.: Mr. S. S. Rumble (Chief Committee Clerk), and Messrs C. G. Murray and J. H. van Zuylen (Translators).

GYS. R. HOFMEYR,
Clerk of the House of Assembly and one of the Secretaries to the Convention.

House of Assembly Chambers,
Cape Town,
10th September, 1911.

LIST OF DELEGATES AND OFFICERS.

Delegates.

Cape of Good Hope—12:

(*a*) Rt. Hon. Sir J. H. de Villiers, *P.C.*, *K.C.M.G.*, *Chief Justice* (*President*).
(*b*) Hon. J. X. Merriman, *M.L.A.*, *Prime Minister.*
(*c*) Hon. J. W. Sauer, *M.L.A.*, *Commissioner of Public Works.*
(*d*) Hon. F. S. Malan, *M.L.A.*, *Secretary for Agriculture.*
(*e*) Rt. Hon. Dr. L. S. Jameson, *P.C.*, *C.B.*, *M.L.A.*
(*f*) Hon. Dr. T. W. Smartt, *M.L.A.*
(*f*) Hon. E. H. Walton, *M.L.A.*
(*g*) Col. W. E. M. Stanford, *C.B.*, *C.M.G.*, *M.L.A.*
Mr. J. W. Jagger, *M.L.A.*
Mr. H. C. van Heerden, *M.L.A.*
Mr. G. H. Maasdorp, *M.L.A.*
(*h*) Dr. J. H. M. Beck, *M.L.A.*

Natal—5:

(*i*) Rt. Hon. F. R. Moor, *P.C.*, *M.L.A.*, *Prime Minister.*
(*j*) Col. the Hon. E. M. Greene, *K.C.*, *C.M.G.*, *M.L.A.*, *Minister of Railways and Harbours.*
(*k*) Mr. T. Hyslop, *J.P.*, *M.L.A.*
(*l*) Hon. C. J. Smythe, *J.P.*, *M.L.A.*
* Mr. W. B. Morcom, *K.C.*, *M.L.A.*
* Hon. T. Watt, *C.M.G.*, *M.L.A.*

(*a*) Created Baron de Villiers of Wynberg and appointed first Chief Justice of the Union.

(*b*) Created a Privy Councillor.

(*c*) Minister of Railways and Harbours in the first Union Ministry.

(*d*) Minister of Education in the first Union Ministry.

(*e*) Created a Baronet.

(*f*) „ Knight Commanders of the Order of St. Michael and St. George.

(*g*) Appointed a Senator in the first Union Parliament.

(*h*) Created a Knight Bachelor and elected a Senator in the first Union Parliament.

(*i*) Created a Knight Commander of the Order of St. Michael and St. George and appointed a Senator in the first Union Parliament.

(*j*) Appointed a Commissioner of the Railway and Harbour Board.

(*k*) Created a Knight Bachelor.

(*l*) First Adminstrator of the Province of Natal.

* Mr. Morcom resigned before the Convention resumed in Cape Town on the 11th January, 1909, and was replaced by Mr. Watt.

Transvaal—8:

(*m*) Gen. The Rt. Hon. LOUIS BOTHA, *P.C.*, *M.L.A.*, *Prime Minister.*

(*n*) Gen. The Hon. J. C. SMUTS, *M.L.A.*, *Colonial Secretary.*

(*o*) Hon. H. C. HULL, *M.L.A.*, *Colonial Treasurer.*

(*p*) Sir GEORGE FARRAR, *Kt.*, *D.S.O.*, *M.L.A.*

(*q*) Sir PERCY FITZPATRICK, *Kt.*, *M.L.A.*

Mr. H. L. LINDSAY, *M.L.A.*

Gen. S. W. BURGER, *M.L.A.*

(*r*) Gen. J. H. DE LA REY, *M.L.A.*

Orange River Colony—5:

(*s*) Hon. A. FISCHER, *M.L.A.*, *Prime Minister.*

Hon. M. T. STEYN (*Vice-President*).

(*t*) Gen. The Hon. J. B. M. HERTZOG, *M.L.A.*, *Attorney-General.*

Gen. The Hon. C. R. DE WET, *M.L.A.*, *Minister of Agriculture.*

(*u*) Hon. A. BROWNE, *I.S.O.*, *M.L.C.*

*Southern Rhodesia**—3.

(*v*) His Honour Sir WILLIAM MILTON, *K.C.M.G.*, *Administrator.*

(*w*) Hon. C. P. J. COGHLAN, *M.L.C.*

Hon. Sir LEWIS MICHELL, *Kt.*

(*m*) First Prime Minister of the Union.

(*n*) Minister of the Interior, Mines and Defence in the first Union Ministry.

(*o*) Minister of Finance in the first Union Ministry.

(*p*) Created a Baronet.

(*q*) ,, a Knight Commander of the Order of St. Michael and St George.

(*r*) Elected a Senator in the first Union Parliament.

(*s*) Created a Privy Councillor; Minister of Lands in 1st Union Ministry.

(*t*) Minister of Justice in the first Union Ministry.

(*u*) Created a Companion of the Order of St. Michael and St. George.

(*v*) ,, Knight Commander of the Victorian Order.

(*w*) ,, a Knight Bachelor.

* The Rhodesian representatives were given the righ to speak but not to vote.

Officers.

Secretaries:

Cape of Good Hope: Mr. E. F. Kilpin, C.M.G.,* Clerk of the House of Assembly (*Chief Secretary*).

Natal: Mr. G. T. Plowman, C.M.G.,‡ Secretary to the Prime Minister.

Transvaal: Mr. G. R. Hofmeyr,† Clerk of the Legislative Assembly.

Orange River Colony: Mr. A. M. N. de Villiers,‡ Clerk of the House of Assembly.

Interpreter:

Dr. W. E. Bok,§ Private Secretary to Gen. the Rt. Hon. Louis Botha, P.C., M.L.A,, Prime Minister of the Transvaal.

Legal Advisers:

Hon. R. H. Brand.‖

Mr. N. J. de Wet.

Mr. P. Duncan, C.M.G.

Mr. B. K. Long, M.L.A.

Mr. F. Lucas.

Mr. W. Luckhoff.

Mr. H. S. van Zyl, M.L.A.

Mr. W. J. van Zyl, M.L.A.

* Created a Knight Commander of the Order of St. Michael and St. George.

† Appointed Clerk of the House of Assembly of the Union Parliament.

‡ ,, Secretaries to the Administrators of the Provinces of Natal and the Orange Free State respectively.

§ Appointed Secretary to the Prime Minister of the Union.

‖ Created a Companion of the Order of St. Michael and St. George.

List of Delegates* appointed to proceed to London in connection with the passage of the Draft South Africa Act through the Parliament of the United Kingdom.

CAPE OF GOOD HOPE:

Rt. Hon. Sir J. H. de Villiers.
Hon. J. X. Merriman.
Hon. J. W. Sauer.
Rt. Hon. Dr. L. S. Jameson.
Hon. J. H. Hofmeyr.

NATAL:

Rt. Hon. F. R. Moor.
Col. the Hon. E. M. Greene.
Hon. C. J. Smythe.
Mr. T. Hyslop.
Hon. T. Watt.

TRANSVAAL:

Gen. The Rt. Hon. Louis Botha.
Gen. The Hon. J. C. Smuts.
Hon. H. C. Hull.
Sir George Farrar.
Sir Percy Fitzpatrick.

ORANGE RIVER COLONY:

Hon. A. Fischer.
Hon. M. T. Steyn.
Gen. The Hon. J. B. M. Hertzog.
Hon. A. Browne.

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* For alterations in titles, etc., see pages xi-xii.

LIST OF ANNEXURES
TO THE
MINUTES OF PROCEEDINGS.

No. of Annexure.	SUBJECT.	Remarks.
1	Telegram from the Secretary of State for the Colonies with message of congratulation from H.M. the King.	See Minutes. pp. 2-3.
2	Telegram from the Governor of the Cape of Good Hope with message of congratulation from the Secretary of State for the Colonies.	See Minutes, p. 3.
3	Telegram from the Governor of the Cape of Good Hope with personal message of congratulation.	See Minutes, p. 3.
4–8	Credentials of delegates for the Cape of Good Hope, Natal, Transvaal and Orange River Colony, and of representatives for Rhodesia.	See Minutes. pp. 3-5.
9–17	Telegrams of congratulation from Hon. W. P. Schreiner, Newlands; Postma, Burghersdorp; Afrikander Bond, Steynsburg; Adam Smith, Kokstad; Eendracht, Oudtshoorn; Esselen, Pretoria; Jan Luttig, jr., Prince Albert; C. J. Krige and Dr. Viljoen, Caledon; and Miss Hobhouse, Pretoria.	Not printed.
18	Letter from H.E. the Earl of Selborne forwarding message of congratulation from His Majesty's Government.	do.
19–23a	Telegrams of congratulation from De Wet, Aliwal North; Mayor and inhabitants of Carnarvon; Lombard, M.L.C., Riebeek East; Griqualand West Farmers' Association, Belmont; Moderator, Dutch Reformed Church, Natal; and Sons of England Society, King William's Town.	do.
24	Correspondence on presentation of petition regarding women's franchise.	do.
25	Letter from J. M. Orpen, C.M.G., on representation for other than white citizens.	do.
26	Letter of congratulation from the Griqualand West Farmers' Association, Modder River.	do.
27–30	Telegrams of congratulation from Stellenbosch Municipal Council; Dutch Reformed Church, George and Cape Town Rings; President, Baptist Union, Alice.	do.
30a	Letter from H.E. the Earl of Selborne acknowledging receipt of Minutes of Proceedings.	do.
31	Similar letter from H.E. Sir Matthew Nathan ...	do.
32	Provisional draft of proposed "British South Africa Act," prepared in Natal.	do.

No. of Annexure.	SUBJECT.	Remarks.
33	Petition from 56 women of South Africa in opposition to women's franchise.	Not printed.
34	Division List No. 1	See Minutes, p. 16.
35	Copy of reply to telegrams, and letters of congratulation.	Not printed.
36	Letter from S. Estcourt offering land at Rosmead Junction as site for capital.	do.
37	Telegram of congratulation, Head Committee, S.A. Taalbond.	do.
38–40	Division Lists Nos. 2, 3 and 4	See Minutes, pp. 19 & 21.
41	Petition from Head Committee, Afrikaansche Christelijke Vrouwen Vereeniging, on equal language rights.	Not printed.
42	Petition from Head Committee. Oranje Vrouwen Vereeniging, on equal language rights.	do.
43	Petition from Natal Womens' Enfranchisement Committee on women's suffrage.	do
44	Similar petition from 658 men and women of the Cape Colony.	do.
45	Letter and petition from Cape coloured people resident on the Witwatersrand, on claim to full political rights.	do.
46	Petition from 7,200 women of South Africa, in opposition to women's franchise.	do.
47	Letter from President, Naturalization Reform Association, on naturalization reform.	do.
48	Petition from 1,479 men and women of the Cape Colony, on women's suffrage.	do.
49	Letter from Mayor of Kroonstad on adjournment of Convention to that place.	do.
50	Telegram of congratulation from Head Committee, South African Women's Federation.	do.
51 52	Division Lists Nos. 5 and 6	See Minutes, p. 32.
53	Telegram of congratulation from Klipspruit branch of the Afrikander Bond.	Not printed.
54 58	Division Lists Nos. 7-11	See Minutes, pp. 36-39.
59	Petition from African Political Organization of Cape Colony, on franchise rights.	Not printed.

No. of Annexure.	SUBJECT.	Remarks.
60	Similar petition from African Political Organization of the Transvaal.	Not printed.
61 62	Division Lists Nos. 12 and 13	See Minutes, pp. 15-16.
63	Telegram from Mayor of Harrismith on adjournment of Convention to that place.	Not printed.
64	Petition from African Political Organization of the Orange River Colony, on franchise rights.	do.
65 68	Division Lists Nos. 14-17	See Minutes, pp. 50-56.
69	Letter from Mayor of Queenstown on situation of Union Capital at that place.	Not printed.
70	Telegram of congratulation from the Synod of the Dutch Reformed Mission Church, Paarl.	do.
71	Letter from C. Daniel on rights of coloured people ...	do.
72 73	Division Lists Nos. 18 and 19	See Minutes, pp. 65 & 72.
74 75	Letters from H.E. the Earl of Selborne on congratulations to H.M. the King on birthday.	Not printed.
76	Telegram of congratulation from Naturalization Reform Association, Cape Town.	do.
77	Letter from Wynberg Coloured Men's Political Organization on rights of coloured people.	do.
78	Petition from 1,994 natives of the Transvaal on representation in Union Parliament.	do.
79 80	Division Lists Nos. 20 and 21	See Minutes, pp. 75-76.
81	Telegram of congratulation from Chairman of Molteno branch of the Afrikander Bond.	Not printed.
82 83	Division Lists Nos. 22 and 23	See Minutes, pp. 79-80.
84	Report of Committee on Qualifications of Members, etc.	See Minutes, pp. 81-82.
85 86	Division Lists Nos. 24 and 25	See Minutes, p. 83.
87 88	Letters from the Right Rev. the Bishop of Pretoria, forwarding resolutions of congratulation from Diocesan and Episcopal Synods of the Church of the Province of South Africa	Not printed.
89 90	Division Lists Nos. 26 and 27	See Minutes, pp. 84-85.
91	Letter from H.E. Sir Walter Hely-Hutchinson, acknowledging receipt of Minutes of Proceedings.	Not printed.

No. of Annexure.	SUBJECT.	Remarks.
91a	Report of Committee on Statistics (with printed volume of statistics).	Report only printed, see Minutes, p. 93.
92 93	Division Lists Nos. 28 and 29	See Minutes, p. 97.
94	Petition from 181 men and women of the Cape Colony, in favour of women's franchise.	Not printed.
94a 95	Division Lists Nos 29a and 30	See Minutes, pp. 105 & 110.
96	Letter from the Rev. T. H. Jones, forwarding resolution of Diamond Fields Ministers' Association on uniform code of marriage laws.	Not printed.
97	Report of Committee on Administration of Justice ...	See Minutes, pp. 117-121.
98	Division List No. 31	See Minutes, p. 124.
99	Letter from Town Clerk, Mafeking, on situation of Union Capital at that place.	Not printed.
100	Division List No. 32	See Minutes, p. 130.
101	Report of Committee on Provincial Constitutions ...	See Minutes, pp. 99-104.
102	Letter from His Honour Sir William Milton, acknowledging receipt of Minutes of Proceedings.	Not printed.
103	First Report of Committee on Civil Service and Miscellaneous Matters.	See Minutes, pp. 126-128.
104	Telegram of congratulation from Grand Secretary, Masonic Hall, Johannesburg.	Not printed.
105	Report of Committee on Native Affairs	See Minutes, pp. 134-138.
106	Interim Report of Committee on Union Capital ...	See Minutes, pp. 138-139.
107	First Report of Committee on Finance	See Minutes, pp. 139-142.
108	Second Report of Committee on Civil Service and Miscellaneous Matters.	See Minutes, p. 142.
109	Letter of congratulation from Cape Town and District Evangelical Church Council.	Not printed.
109a 109c	Division Lists Nos. 32a, 32b and 32c	See Minutes, pp. 145-148.
110	Credential of the Hon. T. Watt, C.M.G., M.L.A., as a delegate for Natal, *vice* W. B. Morcom, K.C., resigned.	See Minutes, p. 150.

No. of Annexure.	SUBJECT.	Remarks.
111	Petition from 1,770 natives of the Transvaal, on representation in Union Parliament.	Not printed.
112	Draft South Africa Act, brought up by the Drafting Committee.	See Appendix E.
113-113a	Division Lists Nos. 33 and 34	See Minutes, pp. 153-154.
114	Revised First Report of Committee on Finance ...	See Minutes, pp. 155-159.
115-116	Division Lists Nos. 35 and 36	See Minutes, pp. 160-161.
117	Letter from Parijs Municipality, on situation of Union Capital at that place.	Not printed.
118	Similar letter from Potchefstroom Municipality ...	do.
119	Division List No. 37	See Minutes, p. 168.
120	Telegram from Kroonstad Municipality, offering free land at that place for Union Capital.	Not printed
121	Division List No. 38	See Minutes, p. 171.
122	Report of Committee on Union Capital	See Minutes, pp. 172-173.
123-124	Division Lists Nos. 39 and 40	See Minutes, pp. 174-176.
125	Invitation to members to attend Stellenbosch Agricultural Show.	Not printed.
126-128	Division Lists Nos. 41-43	See Minutes, pp. 180-183.
129	Second Report of Committee on Finance	See Minutes, pp. 186-187.
130-136	Division Lists Nos. 44-49...	See Minutes, pp. 188-197.
137	First Report of Drafting Committee on amendments to Draft Act.	See Minutes, pp. 200-206.
138	Letter from Potchefstroom Municipality on low death rate.	Not printed.
139-150	Division Lists Nos. 50-61	See Minutes, pp. 207-221.
151	Second Report of Drafting Committee on amendments to Draft Act.	See Minutes, pp. 229-232.
152	Third Report of Committee on Finance	See Minutes, p. 232.

No. of Annexure.	SUBJECT.	Remarks.
152a	Division List No. 61a	See Minutes, p. 234.
153	Report of Committee on procedure after publication of Draft South Africa Act.	See Minutes, p. 236.
154	Letter from Chairman of Kimberley and Bloemfontein District Synod of Wesleyan Methodist Church (native section), on safeguarding of interests of natives.	Not printed.
155	Report of Committee on Precis of Draft South Africa Act.	See Minutes, pp. 239-243.
156	Dutch Draft South Africa Act, brought up by Committee appointed thereon.	Not printed in this volume.
157–158	Drafts and Prints of South Africa Act, shewing amendments made by the Convention at various stages, viz. :—	
	First Draft, as brought up by Drafting Committee.	See Appendix E.
	Second Draft, as amended by Convention ...	Not printed.
	First Print, ,, ,, ...	do.
	Second Print. ,, ,, ...	do.
	Third Print, as finally agreed to	do.
	Final Print, with First Report	do.
159	First Report and Draft South Africa Act (in Dutch), as signed by delegates.	Not printed in this volume.
160	First Report and Draft South Africa Act (in English), as signed by delegates.	See Appendix F.
161 162	Corrected Prints (in Dutch) of Draft South Africa Act.	Not printed.
163	Letter from H.E. the Earl of Selborne on amendments of section in regard to Bills reserved for His Majesty's pleasure.	do.
164	Letter from the Judge President, Eastern Districts Court, forwarding memorandum of Judges of that Court on proposed amendments to Draft Act.	do.
165	Letter from the Prime Minister of the Orange River Colony, forwarding resolution of House of Assembly of that Colony, not concurred in by Legislative Council, on definition of "sparsity and density of population," and "sparsely populated areas."	do.
166	Letter from H.E. the Earl of Selborne on reception by British Government of delegates to London in connection with passage of Draft Act through the Parliament of the United Kingdom.	do.

No. of Annexure.	SUBJECT.	Remarks.
167	Letter from Chairman of meeting of coloured residents of Wellington, Cape Colony, on preservation of franchise rights.	Not printed.
168	Petition from Wynberg Coloured Men's Political Organization, on preservation of franchise rights.	do.
169	Resolutions of the various Parliaments on consideration of Draft Act, together with amendments proposed thereto.	See Appendix G.
170	Resolution of public meeting held at Bloemfontein, on establishment of Union railway workshops at that place.	Not printed.
171	Division List No. 1 (Bloemfontein)	See Minutes, p. 255.
172	Petition from Wine Farmers of the Cape Colony, on relief to their industry.	Not printed.
173	Letter from the Right Rev. the Archbishop of Cape Town and Clergy of other denominations, on position and privileges of coloured and native races.	do.
174	Letter from General Secretary, African Political Organization, forwarding resolutions on protection of rights of coloured people.	do.
175	Letter from Resident Magistrate, Thaba 'Nchu, forwarding petition from natives of that district on protection of rights of coloured people.	do.
176	First Report (Bloemfontein) of Committee on Finance	See Minutes, pp. 258-259.
177	Report of Committee on sections 39 and 40 of Draft South Africa Act.	See Minutes, p. 260.
178	Division List No. 2 (Bloemfontein)	See Minutes, p. 261.
179	Petition from J. A. Sishuba on expunging of clauses of Draft Act relating to coloured people.	Not printed.
180	Letter from H.E. the Earl of Selborne on position, under Union, of Land Settlement Boards of Transvaal and Orange River Colony.	do.
181	Letter from the Rev. E. O. Barratt, on position and privileges of coloured and native races.	do.
182-183	Division Lists No. 3 and 4 (Bloemfontein)	See Minutes, pp. 265-267.
184	Second Report (Bloemfontein) of Committee on Finance.	See Minutes, p. 268.
185	Railway Agreement between Transvaal, Cape Colony and Natal, on distribution of railway traffic to competitive area.	See Minutes, pp. 269-270.

No. of Annexure.	SUBJECT.	Remarks.
186	Third Report (Bloemfontein) of Committee on Finance.	See Minutes, p. 273.
187	Second Report and amended Draft South Africa Act (in Dutch), as finally adopted and signed by delegates.	Not printed in this volume.
188	Second Report and amended Draft South Africa Act (in English), as finally adopted and signed by delegates.	Report only printed, see Appendix H.

CONVENTION RECORDS.

Note.—The original records of the Convention are bound in manuscript in five volumes, as follows :—

Vol. I.—Minutes of Proceedings.

Vol. II., III. and IV.—The annexures enumerated above.

Vol. V.—General correspondence, etc.

G.R.H.

COMMITTEES APPOINTED.

STATISTICS: Messrs. Browne (*Chairman*), Walton, Hull, Hyslop, and Sir William Milton.

Appointed 16th and 19th October, 1908 (pages 14 and 20).

Reported 30th November, 1908 (page 93).

FRANCHISE: Messrs. Fischer (*Chairman*), Sauer, Walton, Sir Percy Fitzpatrick, Gen. Smuts, Gen. Hertzog, Mr. Smythe, Col. Greene, and Mr. Coghlan.

Appointed 22nd October, 1908 (pages 26-27).

Reported First, 2nd November, 1908 (pages 56-57): Second, 4th November, 1908 (page 64).

CONSTITUTION OF SENATE: The President (*Chairman*), Mr. Merriman, Dr. Jameson, Messrs. Moor, Hyslop, Gen. Botha, Sir Percy Fitzpatrick, Messrs. Fischer and Browne.

Appointed—26th October, 1908 (page 35).

Reported—27th October, 1908 (page 36).

CONSTITUTION OF HOUSE OF ASSEMBLY: The President (*Chairman*), Mr. Merriman, Dr. Jameson, Messrs. Moor, Hyslop, Col. Greene, Gen. Botha, Sir George Farrar, Gen. Smuts, Mr. Fischer, Gen. Hertzog, and Mr. Browne.

Appointed 28th October, 1908 (page 43).

Reported First, 29th October, 1908 (pages 44-45): Second, 3rd November, 1908 (pages 57-58).

ADMINISTRATION OF JUSTICE: The President (*Chairman*), Messrs. Merriman, Sauer, Col. Greene, Mr. Morcom, Gen. Smuts, Messrs. Lindsay, Fischer, Gen. Hertzog and Mr. Coghlan.

Appointed—5th November, 1908 (page 70).

Reported—8th December, 1908 (pages 117-121).

QUALIFICATIONS OF MEMBERS: Messrs. Sauer (*Chairman*), Morcom, Hull, and Gen. Hertzog.

Appointed—23rd November, 1908 (page 76).

Reported 25th November, 1908 (pages 81-82).

ORDER LIST AND NOTICE PAPER: The President, Messrs Merriman, Moor, Gen. Botha, and Mr. Fischer.

Appointed 23rd November, 1908 (page 73).

PROVINCIAL CONSTITUTIONS: The President (*Chairman*), Mr. Merriman, Dr. Jameson, Col. Greene, Mr. Hyslop, Gen. Smuts, Sir George Farrar, Mr. Fischer, Gen. Hertzog (with Mr. Steyn as alternate), and Mr. Coghlan.

Appointed 27th November, 1908 (pages 89-90).

Reported 2nd December, 1908 (pages 99-104).

Finance: Messrs. Merriman* [afterwards replaced by Mr. Sauer (*Chairman*)], Jagger, Hyslop, Col. Greene (afterwards temporarily replaced by Mr. Smythe), Mr. Hull, Sir George Farrar (with Gen. Smuts as alternate), Messrs. Fischer, Browne, and Sir Lewis Michell.

Appointed 7th December, 1908 (page 114).

Reported First, 17th December, 1908 (pages 139-142), and 14th January, 1909 (pages 155-159); Second, 20th January, 1909 (pages 186-187); Third, 29th January, 1909 (page 232).

Reappointed at Bloemfontein 3rd May, 1909 (page 251).

Reported First, 6th May, 1909 (pages 258-259); Second 10th May, 1909 (page 268); Third, 11th May, 1909 (page 273).

Native Affairs: The President (*Chairman*), Mr. Merriman, Col. Stanford, Mr. Moor, Gen. Botha, Mr. Fischer, and Sir Lewis Michell.

Appointed 10th December, 1908 (page 125).

Reported—17th December, 1908 (pages 134-138).

Civil Service and Miscellaneous Matters: Messrs. Steyn (*Chairman*), Merriman, Dr. Jameson, Messrs. Morcom, Smythe, Gen. Smuts, Sir Percy Fitzpatrick, Gen. Hertzog, and Sir Lewis Michell.

Appointed 10th December, 1908 (page 125).

Reported First, 14th December, 1908 (pages 126-128); Second, 17th December, 1908 (page 142).

Union Capital: The President (*Chairman*), Messrs. Sauer (with Mr. Maasdorp as alternate), Hyslop (with Col. Greene as alternate), Gen. Botha and Gen. Hertzog.

Appointed 10th December, 1908 (pages 125-126).

Reported Interim Report, 17th December, 1908 (pages 138-139); Report, 18th January, 1909 (pages 172-173).

Draft South Africa Act: The President (*Chairman*), Mr. Merriman (with Mr. Walton as alternate), Col. Greene (afterwards replaced by Mr. Watt), Gen. Smuts (with Mr. Hull as alternate), Gen. Hertzog, and Sir Lewis Michell (with Mr. Ogilvie as alternate).

Appointed 18th December, 1908 (page 143).

Reported Draft Act submitted, 12th January, 1909 (page 152); First, 23rd January, 1909 (pages 200-206); Second, 29th January, 1909 (pages 230-232); Third, 2nd February, 1909 (page 247).

* Mr. Merriman resumed service on the Committee at Bloemfontein.—G.R.H.

* DUTCH DRAFT SOUTH AFRICA ACT: Gen. Hertzog (*Chairman*), Messrs. Malan, Moor, and Gen. Smuts.

Appointed 19th January, 1909 (page 178).
Reported Draft Act submitted, 2nd February, 1909 (page 244).

PRECIS OF DRAFT SOUTH AFRICA ACT: Mr. Walton (*Chairman*), Mr. Watt, Gen. Smuts, Gen. Hertzog, and Mr. Coghlan.

Appointed 29th January, 1909 (page 235).
Reported 30th January, 1909 (pages 239-243).

PROCEDURE AFTER PUBLICATION OF DRAFT SOUTH AFRICA ACT: The President (*Chairman*), Messrs. Merriman, Moor, Gen. Botha, and Mr. Fischer.

Appointed 29th January, 1909 (page 235).
Reported 30th January, 1909 (page 236).

SECTIONS 39 AND 40 OF DRAFT SOUTH AFRICA ACT: The President (*Chairman*), Mr. Sauer, Dr. Jameson, Mr. Moor, Col. Greene, Gen. Smuts, Sir George Farrar, Messrs. Steyn, Fischer, and Coghlan.

Appointed 7th May, 1909 (page 260).
Reported 7th May, 1909 (page 260).

At the request of the [illegible] appointed to frame the Dutch Draft Act, [illegible] R. Hertzog (Chairman), Messrs. Murray, Hershensohn and [illegible]

SOUTH AFRICAN NATIONAL CONVENTION.

MINUTES OF PROCEEDINGS.

DURBAN, MONDAY, 12TH OCTOBER, 1908.

1. The delegates assembled in the Council Chamber of the Town Hall at a quarter to twelve o'clock, a.m.

2. *Mr. Moor* moved: That the Right Honourable Sir J. H. de Villiers be President of the Convention.

Agreed to, unanimously.

Sir Henry de Villiers from his place said: Gentlemen, I thank you for the great and signal honour which you have done me by electing me as Chairman of this Convention. I would have been quite content to take my part as an ordinary member, but I cannot shirk the responsibility which your unanimous vote has imposed on me and I therefore place my services, such as they are, entirely at your disposal.

It is well, Gentlemen, that we should at the outset clearly understand the exact nature of the duties entrusted to us by the different Parliaments which have appointed us as delegates. They have accepted the resolutions of the Pretoria Conference to the effect that "the best interests and the permanent prosperity of South Africa can only be secured by an early union under the Crown of Great Britain, of the several self-governing Colonies," and that the object of the Convention shall be "to consider and report on the most desirable form of South African Union and to prepare a Draft Constitution."

We have a mandate, therefore, to enquire, not whether an early union is desirable, for that has already been decided upon by our principals, but what form that union should take and what should be the machinery for bringing it into being. There appears to be an impression abroad that this Convention is going to lay down the lines to be followed upon such questions as the future native policy of South Africa, but I think you will agree with me that questions of that nature can only be dealt with by us in so far as they bear upon the immediate matters submitted to us for consideration.

The chief argument in favour of a closer union is that by that means only can we obtain one Legislature for all the Colonies of South Africa that will be able to cope with the great problems which are common to all the Colonies and which they cannot individually and at the same time effectually deal with.

We cannot usurp the functions of such a Legislature, but at the same time we cannot avoid the discussion of the wider problems if such discussion becomes necessary for the due performance of the duties actually entrusted to us. The difficulties which we shall have to encounter are great enough without our going out of our way in order to add to them, but I feel confident that they will not prove to be insurmountable. Everything depends upon the spirit with which we approach the performance of our task. Failure is certain if we start with a feeling of distrust and suspicion of each other and with the sole desire to secure as many advantages as we can for our respective political parties or our respective Colonies. Success is certain if we give each other our fullest confidence and act upon the principle that, while not neglectful of the interests of those who have sent us here, we are, for the time being, representatives of the whole of British South Africa. A great opportunity now lies before us and it is an opportunity which may not soon occur again. We have the best wishes not only of those who sent us but of Great Britain and of the Empire. No more striking proof could have been given by Great Britain of her sympathy with our aspirations than the sending of the Squadron which lies at anchor in this harbour to greet the Convention. As to the feelings of the rest of the Empire, if they are at all reflected by what I experienced lately in Canada they are more than sympathetic. The ardent wish was expressed to me by every Canadian statesman I met that our Convention may immediately lead to great and practical results. Wherever those of us who come from the Cape Colony have called on our way we have been greeted with enthusiasm and with the best wishes for our success. With so much to cheer us on we may well proceed hopefully with our difficult task and with the full determination not to dissolve until we have succeeded in framing a scheme of union which shall be durable and destined to create a strong and united, prosperous and contented South African nation within the folds of the British Empire.

The second resolution of the Conference was "that to the Union contemplated in the foregoing resolution Rhodesia shall be entitled to admission at such time and on such conditions as may hereafter be agreed upon." It was only right, therefore, that representatives from Rhodesia should be admitted to our deliberations, and on behalf of the Convention I take this opportunity of bidding them a hearty welcome.

Sir Henry then took the Chair.

3. *The President* read and put in the following telegrams:

(1) From the Secretary of State for the Colonies, London, to the President, Closer Union Convention, Durban.

His Majesty has commanded me to ask you to receive and to convey to the members of the Convention at Durban an expression of his deep interest in the subject of Closer Union which has brought them together, and of his cordial good wishes for the success of their deliberations animated by

their whole-hearted desires and unswerving efforts for the common good of South Africa. Crewe.

(ii) From the Governor, Cape Town, to the Prime Minister of Cape Colony, Durban.

12th Oct.—Following from Secretary of State: Please transmit following message to delegates representing Government of Cape of Good Hope. As Secretary of State for the Colonies it gives me sincere pleasure on behalf of His Majesty's Government as representing the people of the United Kingdom to express their profound sense of the importance of the meetings of the Convention at Durban and of the objects of Closer Union which it has in view. It is to them a source of satisfaction that it should have been rendered possible to summon such a Convention, and that they as advisers of His Majesty the King should be privileged to express the confident hope that its labours will produce results beneficial to South Africa. I feel sure that all His Majesty the King's self-governing Dominions will share in the feelings which prompt this message.

(iii) From the Governor, Cape Colony, to the President, National Convention, Durban.

12th Oct.—Please accept and convey to the members of the Convention the expression of my keen satisfaction at the thought that their labours are actually commencing and of my earnest hope that their deliberations may be guided towards adequate solution in the best interest of the Empire of the great problems which have been introduced to their consideration by the people of South Africa.

4. *Mr. Merriman* moved: That Mr. M. T. Steyn be Vice-President of the Convention.

Agreed to, unanimously.

Mr. Steyn expressed his thanks for the honour which had been done to him, and placed his services at the disposal of the Convention in the capacity of Vice-President.

5. *Mr. Moor* moved: That Mr. E. F. Kilpin be appointed Chief Secretary of the Convention, and that Mr. G. R. Hofmeyr, Mr. A. M. N. de Villiers, and Mr. G. T. Plowman be Secretaries to the Convention.

Agreed to.

6. The credentials of the delegates attending the Convention were then put in as follows:

(i) By *Mr. Merriman*:

The following are the delegates appointed to represent the Colony of the Cape of Good Hope in the Convention on the Closer Union of South Africa, viz.:—

The Right Honourable Sir J. H. de Villiers, P.C., K.C.M.G., Chief Justice.

The Right Honourable Dr. L. S. Jameson, P.C., C.B., M.L.A.

The Honourable Dr. T. W. Smartt, M.L.A.

The Honourable E. H. Walton, M.L.A.
Col. W. E. M. Stanford, C.B., C.M.G., M.L.A.
J. W. Jagger Esq., M.L.A.
H. C. van Heerden Esq., M.L.A.
G. H. Maasdorp Esq., M.L.A.
Dr. J. H. M. Beck, M.L.A.
The Honourable F. S. Malan, M.L.A., Secretary for Agriculture.
The Honourable J. W. Sauer, M.L.A., Commissioner of Public Works.
The Honourable J. X. Merriman, M.L.A., Prime Minister.

Mr. E. F. Kilpin, C.M.G., Clerk of the House of Assembly, has been appointed to be the Secretary for the Cape of Good Hope.

(Sgd.) JOHN X. MERRIMAN,
Prime Minister.

Prime Minister's Office,
Cape Town,
26th September, 1908.

(ii) By *Mr. Moor*:

The following are the delegates appointed to represent the Colony of Natal in the Convention on the Closer Union of South Africa, viz.:—

The Right Honourable F. R. Moor, P.C., M.L.A.
W. B. Morcom, Esq., K.C., M.L.A.
T. Hyslop, Esq., J.P., M.L.A.
The Honourable Col. E. M. Greene, K.C., M.L.A., and
The Honourable C. J. Smythe, J.P., M.L.A.

Mr. G. T. Plowman has been appointed to be the Secretary for the Colony of Natal.

(Sgd.) F. R. MOOR,
Prime Minister.

Prime Minister's Office,
Pietermaritzburg, Natal,
8th October, 1908.

(iii) By *General Botha*:

The following are the delegates appointed to represent the Colony of the Transvaal in the convention on the Closer Union of South Africa, viz.:—

Sir G. H. Farrar, D.S.O., M.L.A.
Sir J. P. Fitzpatrick, M.L.A.
H. L. Lindsay Esq., M.L.A.
Gen. S. W. Burger, M.L.A.
Gen. J. H. de la Rey, M.L.A.
The Honourable H. C. Hull, M.L.A., Colonial Treasurer.
Gen. the Honourable J. C. Smuts, M.L.A., Colonial Secretary.
Gen. the Right Honourable L. Botha, P.C., M.L.A., Prime Minister.

Mr. G. R. Hofmeyr, Clerk of the Legislative Assembly, has been appointed Secretary for the Transvaal.

Dr. W. E. Bok, Private Secretary to the Rt. Hon. L. Botha, has been appointed Official Interpreter to the Convention.

(Sgd.) LOUIS BOTHA,
Prime Minister.

Prime Minister's Office,
Pretoria,
October, 1908.

(iv) By *Mr. Fischer*:

The following are the delegates appointed to represent the Orange River Colony in the Convention on the Closer Union of South Africa, viz.:—

Mr. M. T. Steyn.
The Honourable J. B. M. Hertzog, M.L.A., Attorney-General.
The Honourable C. R. de Wet, M.L.A., Minister of Agriculture.
The Honourable A. Browne, L.S.O., M.L.C.
The Honourable A. Fischer, M.L.A., Prime Minister.

Mr. A. M. N. de Villiers, Clerk of the House of Assembly, has been appointed to be the Secretary for the Orange River Colony.

(Sgd.) A. FISCHER,
Prime Minister.

Prime Minister's Office,
Bloemfontein,
6th October, 1908.

(v) By *Sir Lewis Michell*:

The Administrator of Southern Rhodesia, with the advice of the Executive Council, has approved of the appointment of the following as representatives of the Territory of Southern Rhodesia at the Closer Union Convention to be held in Durban on 12th October, 1908:—

Sir William Henry Milton, K.C.M.G., Administrator.
The Honourable Sir Lewis Leyd Michell, Kt.
Charles Patrick John Coghlan Esq., M.L.C.

(Sgd.) W. H. MILTON,
Administrator.

(Sgd.) A. H. HOLLAND,
Acting Clerk of Councils.

Salisbury,
2nd October, 1908.

7. All the members of the Convention were present with the exception of Sir William Milton and Mr. Coghlan.

8. *The President* stated that the Convention had this morning attended in the Town Hall where before a large gathering of the citizens of Durban His Worship the Mayor had extended a cordial welcome to the Convention and that Mr. Henwood's good

wishes had been duly responded to on behalf of the Convention by the Prime Minister of the Cape of Good Hope.

9. *The President* intimated that the following rules for the regulation of the work of the Convention were included in the resolutions adopted at the Pretoria Conference on the 5th May, 1908, and had been confirmed by the Parliaments of the respective Colonies concerned, viz. :

(i) The voting shall be *per capita*, and not by States.

(ii) The Chairman shall have the right of speaking and voting, and, in the event of an equality of votes, shall have a casting vote.

10. The Convention proceeded to frame further rules and orders for its procedure.

Mr. Sauer moved : That eight of the members entitled to vote shall form a quorum.

Gen. Smuts moved as an amendment : To omit "eight" and substitute "twelve."

After discussion,

With leave of the Convention,

The motion proposed by Mr. Sauer was withdrawn in favour of the amendment, which was put as the main question and agreed to.

Discussion ensued.

11. Resolved : That Dr. W. E. Bok be admitted to the Chamber for the purpose of acting as interpreter in the Dutch language.

12. The Convention resumed the consideration of rules and orders.

Resolved: That the following further rules be adopted, viz.:

(i) Motions do not require to be seconded.

(ii) Members may speak more than once to the same question.

(iii) Questions will be decided by the majority of voices.

(iv) If the President's decision is challenged, there shall be a division, the "Ayes" standing up and the "Noes" retaining their seats.

13. *Mr. Merriman* moved : That after this date the proceedings of the Convention shall be absolutely secret ; that no records of any speeches be made, but that records of all resolutions, proposals and amendments and of any divisions thereon be kept.

Agreed to.

14. *His Excellency Sir Matthew Nathan, K.C.M.G.*, Governor and Commander-in-Chief of Natal, was then announced, and having entered the Chamber and taken the Chair, which was temporarily vacated for that purpose by the President, he said :

Sir Henry de Villiers, Mr. Steyn and Gentlemen,

On behalf of the Government of Natal, I welcome you to our Colony and I express our pleasure that the great National Convention is being held here.

Addressing as I am the most thoughtful men in South Africa, it would be superfluous for me to dwell on the evident magnitude

and importance of the task before them, a task on the just fulfilment of which depends the future development of the sub-continent and the well-being of all its present inhabitants and of the generations that will follow after them. To this just fulfilment each and all of the delegates here assembled will, we know, bring a wise caution that will take advantage of the experiences of the nations that have been formed by the union of states in the past, a bold imagination that will adapt the results of those experiences to our special conditions, a broad vision which while seeing to the general good of the whole will not overlook the special interests of the parts, and above all a wide sympathy with all fellow-subjects of the Empire in South Africa, a sympathy that will take no account of racial differences, of geographical boundaries or of diversity of occupation.

The whole people of South Africa are looking to you to devise for them a scheme which will unite them in a great nation, a nation of white people, maintaining their virility and increasing in numbers, ruling themselves and a contented native population in the common interests of all, a nation governed in such a way that the vast resources of the land may be developed and its productiveness may be constantly increased, in such a way that a world commerce may be established commensurate with the favourable position of the country between western and eastern oceans and with the commercial instincts of its people descended from the two historic trading nations of Europe, in such a way that peace and good order may be continuously maintained within and security provided against attack from without, so that the new commonwealth may add to and not draw on the strength of the Empire of which it will form part, in such a way that education and the arts and sciences may advance so that in culture as in strength South Africa may be among the foremost nations of the world, and in such a way as to carry on through the coming centuries the ideals of honesty and justice, of courage and purity which made great the nations from which British and Dutch in South Africa have sprung.

Gentlemen, I leave you to your deliberations in the profound hope that under Divine guidance they will lead to the creation of a great United South Africa and thereby add strength and lustre to the British Empire.

The President replied: Your Excellency, before you leave I wish to thank you for your attendance to-day and for the practical manner in which you have shown your sympathy with the great objects which the Convention has in view. You have placed a great ideal before us, but I am sure every one of us will try to attain it and I may take this opportunity of thanking not only yourself but the Government of Natal for the manner in which they have looked after the comfort of this Convention and have made all the necessary preparations for its meetings.

15. *Sir Matthew Nathan* having retired, the President resumed the Chair.

16. *Col. Greene* moved: That one copy of the Minutes of Proceedings of the Convention be handed daily to the several

Prime Ministers, and also to Sir William Milton on behalf of the Rhodesian members.

Mr. Walton moved as an amendment: That a copy of the Minutes of the preceding day, with the agenda for the following sitting, be given to each member: such copies not to be removed from the chamber.

Sir Percy Fitzpatrick moved as a further amendment: That a copy of the Minutes of Proceedings, together with the agenda for the following sitting, numbered and marked "Confidential", be issued to each Member daily, bound in portfolios bearing the names of the members for whose use they are issued: such portfolios not to be removed from the Convention Chamber and to be collected at each adjournment and kept in the custody of the Chief Secretary.

After discussion.

With leave of the Convention, the original motion and the amendment proposed by Mr. Walton were withdrawn, and the amendment proposed by Sir Percy Fitzpatrick was put as the main question and agreed to.

17. *General Smuts* moved: That save as may be otherwise decided upon, the sittings of the Convention be held on each week-day from 9.30 a.m. to 12.30 p.m., and from 3.30 to 5.30 p.m.

Agreed to.

18. *Mr. Malan* moved: That notices of motion may be given at any time for discussion when so given: but that notices of which previous notice has been given shall have precedence.

Agreed to.

19. *The President* read and put in telegrams of congratulation on the meeting of the Convention and conveying good wishes for the success of its labours from Mr. Schreiner, Newlands; Mr. Postma, Burghersdorp; the Afrikander Bond, Steynsburg; Adam Smith, Kokstad; Eendracht, Oudtshoorn; Esselen, Pretoria; Jan Luttig Jr., Prince Albert; C. J. Krige and Dr. Viljoen, Caledon; and Miss Emily Hobhouse, Pretoria.

20. *Mr. Fischer* moved: That the address delivered by the President to-day be incorporated in the Minutes.

Agreed to.

21. *Mr. Malan* moved: That a precis of the proceedings of this morning, with the addresses delivered, be handed to the press for publication; such precis to be submitted to the President before being issued.

Mr. Jagger moved as an amendment: That of to-day's proceedings only the address of His Excellency the Governor and the reply thereto of the President be given to the press.

After discussion.

This amendment was put and negatived.

The original motion was then put and agreed to.

22. On the motion of Mr. Sauer, the Convention adjourned at 1.20 p.m. until to-morrow, at 9.30 a.m.

DURBAN. *Tuesday*, 13TH *October*, *1908*.
Half past nine o'clock a. m.

1. All the members were present.

2. Minutes of the previous meeting having been corrected in two points were confirmed.

3. *The President* stated that he proposed to forward the following replies to the messages [pages 2 and 3] from H. M. the King and the Secretary of State for the Colonies, viz.:

(i) From the President, National Convention, to the Colonial Secretary, London.

I have to beg you to convey to His Majesty the humble thanks of Convention for his gracious message which will be a great encouragement to delegates in the performance of their arduous task.

(ii) From the President, National Convention, to His Excellency the Governor, Cape Town.

On behalf of Convention I have to request that Your Excellency will convey to the Secretary of State for the Colonies the sincere acknowledgements of the delegates for the kind and encouraging message which you transmitted to me yesterday from Lord Crewe, and also that you will accept the hearty thanks of the Convention for your own most cordial and sympathetic expressions of goodwill.

The replies were approved of.

4. *The President* stated that messages of welcome had been received from His Excellency the Governor of the Transvaal and His Excellency the Administrator of the Orange River Colony in similar terms to the message already submitted to the Convention from the Governor of the Cape Colony.

5. *The President* read and put in further telegrams of congratulation on the meeting of the Convention from: Hon. N. J. De Wet, M.L.C., Aliwal North; Mayor and inhabitants, Carnarvon; Hon. J. F. Lombard, M.L.C., Riebeek East; Griqualand West Farmers Association, Belmont Branch; Moderator, Dutch Reformed Church of Natal; and the Supreme Grand President, Sons of England Society, King William's Town.

6. *The President* submitted a telegram from the Honorary Secretary of a Committee for the presentation of a petition on the question of women's franchise, asking for information how the petition may be presented and whether a deputation of ladies would be permitted to attend for that purpose.

Mr. Merriman moved: That the usual Parliamentary course be adopted for the presentation of petitions.

Agreed to.

7. *The President* submitted a letter from Mr. J. M. Orpen, C.M.G., dated the 12th instant, on the subject of granting a fair share of representation to other than white citizens only of the British Empire in the South African Colonies and Territories, and further stated that Mr. Orpen had supplied copies of the letter for distribution amongst the members.

Gen. Smuts moved: That the copies of the letter be distributed amongst the members.

Agreed to.

8. *Mr. Merriman* moved:

(a) That it is desirable for the welfare and future progress of South Africa that the several British Colonies be united under one Government in a legislative union under the British Crown.

(b) That provision shall be made for the constitution of Provinces, with powers of local legislation and administration; the present self-governing Colonies being taken as Provinces.

(c) That provision be made for the admission into the Union, as Provinces or Territories, of all such parts of South Africa as are not included from its establishment.

(d) That the Union shall be styled "South Africa."

Discussion ensued.

Mr. Fischer moved, as an amendment: In sub-section (b) to omit the words "local legislation and administration" and substitute "legislation and administration in local matters and in such others as may be specially reserved to be exclusively dealt with by each province separately."

On the motion of Col. Stanford, the debate was adjourned until to-morrow.

9. On the motion of Mr. Sauer, the Convention adjourned at a quarter past twelve o'clock p.m. until to-morrow at half past nine o'clock a.m.

DURBAN, *Wednesday*, 14th *October, 1908.*

Half past nine o'clock a.m.

1. All the Members were present.

2. Minutes of previous meeting confirmed.

3. Resolved: That the President be authorised to transmit to the Governors of the Cape of Good Hope, the Transvaal, the Orange River Colony and Natal, respectively, copies of the daily minutes of proceedings as personal and confidential communications.

4. *The President* read and put in further letters and telegrams of congratulation on the meeting of the Convention, from: Griqualand West Farmers' Association, Modder River; Stellenbosch Municipal Council; Dutch Reformed Church (George Circuit); and Dutch Reformed Church (Cape Town Circuit).

5. Debate on Mr. Merriman's motion on the Union of British South Africa resumed.

The President stated that when this debate was adjourned yesterday the question before the Convention was the motion which appears above, upon which an amendment had been moved by Mr. Fischer: "In sub-section (b) to omit the words "local legislation and administration" and substitute "legislation and administration in local matters and in such others as may be specially reserved to be exclusively dealt with by each Province separately."

Discussion resumed.

Mr. Morcom moved as a further amendment: In sub-section (a) to omit the words "in a legislative union;" in sub-

section (b) to omit "for the constitution of Provinces with powers of local legislation and administration," and to substitute "whereby;" and at the end of the same sub-section to omit "being taken as Provinces" and substitute "shall as such become States of the Union so created;" in sub-section (c) to omit "Provinces or" and to substitute "States of the;" and in sub-section (d), after "styled," to insert "the Dominion of."

Business suspended at half past twelve o'clock p.m.

Half past three o'clock p.m.

Business resumed.

Mr. Browne moved, as an amendment to Mr. Fischer's amendment: In the words proposed to be inserted to omit "exclusively."

Col. Greene moved, as an amendment to sub-section (b): To omit "for" and substitute "in;" and after "Constitution," to insert "for the establishment."

After discussion,

On the motion of Mr. Malan, the debate was adjourned until to-morrow.

6. On the motion of Mr. Sauer, the Convention adjourned at twenty-five minutes past five o'clock p.m., until to-morrow at half-past nine o'clock a.m.

DURBAN, *Thursday*, 15TH *October*, *1908*.

Half past nine o'clock a.m.

1. All the Members were present.

2. Minutes of previous meeting confirmed.

3. Debate on Mr. Merriman's motion on the Union of British South Africa resumed.

The President stated that when this debate was adjourned yesterday the question before the Convention was the motion which appeared on page 10 of the Minutes; upon which the following amendments had been moved:

By Mr. Fischer: In sub-section (b) to omit the words "local legislation and administration" and substitute "legislation and administration in local matters and in such others as may be specially reserved to be exclusively dealt with by each Province separately."

By Mr. Morcom: In sub-section (a) to omit the words "in a legislative Union;" in sub-section (b) to omit "for the constitution of Provinces with powers of local legislation and administration," and to substitute "whereby," and at the end of the same sub-section to omit "being taken as Provinces" and substitute "shall as such become States of the Union so created;" in sub-section (c) to omit "Provinces or" and to substitute "States of the:" and in sub-section (d), after "styled," to insert "the Dominion of."

By Col. Greene: In sub-section (b) to omit "for" and substitute "in," and after "constitution" to insert "for the establishment."

By Mr. Browne, as an amendment to the amendment proposed by Mr. Fischer: In the words proposed to be inserted to omit "exclusively."

Debate resumed.

4. *Mr. Sauer* moved: That the Convention at its rising tomorrow adjourn until Monday.

Agreed to.

5. Business suspended at half past twelve o'clock p.m.

Half past three o'clock, p.m.

Business resumed.

6. Debate on Mr. Merriman's motion on the Union of British South Africa [page 10] continued.

After discussion,

With leave of the Convention,

The sub-section (b) proposed by Mr. Merriman, and the amendments thereon by Mr. Browne, Col. Greene and Mr. Fischer, were withdrawn.

Mr. Merriman moved: That the following be a new sub-section (b):—That provision shall be made in the Constitution for the establishment of Provinces with powers of legislation and administration in local matters and in such others as may be specially reserved to be dealt with by each Province separately, the present self-governing Colonies being taken to be the Provinces of the Union.

The President then put the amendment proposed by Mr. Morcom, which was negatived, viz.: That the motion read as follows:—

That it is desirable for the welfare and future progress of South Africa that the several British Colonies be united under one government under the British Crown.

That provision shall be made whereby the present self-governing Colonies shall as such become States of the Union so created.

That provision be made for the admission into the Union as States of the Territories of all such parts of South Africa as are not included from its establishment.

That the Union shall be styled the Dominion of South Africa.

With leave of the Convention,

Mr. Merriman withdrew sub-section (d).

Mr. Walton asked the President whether under the motion as now proposed it would be competent for the Union Parliament to define the number and extent of the Provinces of the Union?

The President stated that if a legislative union is agreed upon then in his opinion the Union Parliament would have the power to divide the Provinces as it thought fit unless there was a provision to the contrary in the Constitution.

The motion proposed by Mr. Merriman, as amended, was then put and agreed to, viz.:—

(a) That it is desirable for the welfare and future progress of South Africa that the several British Colonies be united under one Government in a legislative union under the British Crown.

(b) That provision shall be made in the Constitution for the establishment of Provinces with powers of legislation and administration in local matters and in such others as may be specially reserved to be dealt with by each Province separately, the present self-governing Colonies being taken to be the Provinces of the Union.

(c) That provision be made for the admission into the Union as Provinces or Territories of all such parts of South Africa as are not included from its establishment.

7. *The President* read and put in a telegram from the President of the Baptist Union, Alice, conveying good wishes for the success of the Convention.

8. Resolved: That replies be sent to telegrams and letters of congratulation.

9. The Convention adjourned at ten minutes to five o'clock, p.m.

DURBAN, *Friday*, 16TH *October*, *1908*.

Half past nine o'clock, *a.m.*

1. All the Members were present.

2. Minutes of previous meeting confirmed.

3. *The President* read and put in a letter from His Excellency Lord Selborne, dated the 15th instant, acknowledging the first copies of the proceedings of the Convention, and conveying an expression of his appreciation of the courtesy of the Convention in the matter: also his sense of the necessity for regarding these communications as confidential.

4. *The President* read and put in a letter in the same sense from His Excellency Sir Matthew Nathan, dated the 15th instant.

5. *Mr. Moor* laid on the Table the draft of a British South Africa Act, and intimated that he would move section by section.

6. *The President* presented a petition which had been forwarded to him from 56 women of South Africa in opposition to the grant of the parliamentary franchise to women.

The petition was read.

7. *Mr. Browne* moved: That a return be laid upon the Table of this Convention giving in respect of the four Colonies complete information as to the Public Debts, in the form shown in statement No. 24 in Volume II. of "The Government of South Africa," but brought up to the latest date and signed by the Auditors-General of the several Colonies.

Mr. Hyslop moved, as an amendment: To add "Also returns giving:

(a) the ordinary revenue and expenditure for the various Colonies for the last three financial years, and the estimated revenue and expenditure for the current financial year, under the following headings:— (I) Railways; (II) Harbours; (III.) Posts and Telegraphs; (IV) Defence; and (V) Customs and Excise; and (b) the total capital expenditure under the various headings showing separately the total capital expenditure in connection with Railways, Harbours, Customs, Posts and Telegraphs.

Sir Percy Fitzpatrick moved as a further amendment: That a Committee consisting of one member nominated by the Prime Minister of each Colony and one to represent Rhodesia, be appointed to agree (a) as to what statistical information relating to the financial affairs and position of various Colonies and British possessions may be usefully supplied to this Convention and (b) the form in which such information shall be prepared, and to take such steps as may be necessary to obtain the same.

After discussion,

With leave of the Convention,

The original motion and the amendment by Mr. Hyslop were withdrawn in favour of the amendment by Sir Percy Fitzpatrick, which was then put as the main question and agreed to.

8. *Gen. Smuts* moved:

(i) The Executive Government of the Union shall be vested in the Sovereign of the United Kingdom of Great Britain and Ireland and shall be administered according to the well-understood principles of the British Constitution by the Sovereign personally, or by a Governor-General as his representative.

(ii) There shall be an Executive Council to advise the Sovereign, or his representative, in the Government of the Union, and the members of the Council shall be chosen and summoned by the Governor-General and sworn as Executive Councillors and shall hold office during his pleasure.

(iii) The Governor-General may appoint officers to administer such Departments of State of the Union as the Governor-General-in-Council may establish. Such officers shall hold office during the pleasure of the Governor-General. They shall be Members of the Executive Council and shall be His Majesty's Ministers of State for the Union. After the first general election no Minister shall hold office for a longer period than three months, unless he is or becomes a member of either House of the Parliament.

(iv) Until the Parliament otherwise provides the Ministers shall not exceed ten in number and shall hold such offices as the Parliament prescribes or, in the absence of provision, as the Governor-General directs.

(v) All powers and functions which at the establishment of the Union are vested in the Governor of a Colony, or in the

Governor of a Colony with the advice of the Executive Council, or in any authority of the Colony, shall as far as the same continue in existence and capable of being exercised after the Union, be vested in the Governor-General, or in the Governor-General-in-Council, or in the authority exercising similar powers under the Union, as the case requires, except such powers and functions as are by the Constitution or a law of the Parliament or the Governor-General-in-Council delegated to some other authority.

The President proceeded to put the paragraphs *seriatim*.

Paragraph (i) [page 14.] put.

Mr. Sauer moved as an amendment: After "Governor" to omit "General."

After discussion, the consideration of this motion was postponed to enable a motion to be moved descriptive of the title of the Union.

9. *Mr. Sauer* moved: That the Union shall be styled "The Union of South Africa."

Dr. Smartt moved as an amendment: To omit "The Union of" and substitute "British."

Mr. Jagger moved as a further amendment: To omit "Union" and substitute "Commonwealth."

Mr. Lindsay moved as a further amendment: That the Union shall be styled "South Africa."

After discussion,

The amendments proposed by Dr. Smartt and Mr. Jagger, as well as the original motion, were withdrawn in favour of the amendment by Mr. Lindsay, which was then put as the main question and agreed to.

10. Debate on paragraph (i) [page 14.] of the motion proposed by Gen. Smuts resumed.

The amendment proposed by Mr. Sauer put and negatived.

Mr. Walton moved: To omit the words "well-understood."

Agreed to.

Paragraph, as amended, put and agreed to, viz.:

The Executive Government of the Union shall be vested in the Sovereign of the United Kingdom of Great Britain and Ireland and shall be administered according to the principles of the British Constitution by the Sovereign personally, or by a Governor-General as his representative.

Paragraph (ii) [page 14.] put and agreed to.

On paragraph (iii) [page 14.],

Mr. Walton moved: To add at the end "each Minister of State, being a member of either House, shall have the right to sit and speak in both Houses, but shall vote only in the House of which he is a member."

Mr. Sauer moved: To omit all the words after "Ministers of State for the Union."

Dr. Beck moved: To omit the words "for a longer period than three months" and substitute "beyond the period em-

braced by the sessions of Parliament following immediately upon such election."

After discussion,

With leave of the Convention,

The amendment proposed by Dr. Beck was withdrawn.

The amendment proposed by Mr. Walton put and agreed to.

The amendment proposed by Mr. Sauer put and negatived.

Paragraph, as amended, put and agreed to, viz.:

The Governor-General may appoint officers to administer such Departments of State of the Union as the Governor-General-in-Council may establish. Such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Executive Council and shall be His Majesty's Ministers of State for the Union.

After the first general election no Minister shall hold office for a longer period than three months unless he is or becomes a member of either House of the Parliament. Each Minister of State, being a member of either House, shall have the right to sit and speak in both Houses, but shall vote only in the House of which he is a member.

On paragraph (iv) [page 14.].

Mr. Jagger moved: To omit all the words after "prescribes."

Gen. Hertzog moved: To omit all the words after "number."

After discussion,

With leave of the Convention,

The amendment proposed by Mr. Jagger was withdrawn.

Mr. Merriman moved: To omit "ten" and substitute "seven."

Mr. Jagger moved: To omit "ten" and substitute "eight."

The President put the amendment proposed by Mr. Merriman,

Upon which the Convention divided.

"AYES" 4.	Fischer, Mr.
	Fitzpatrick, Sir J. P.
Beck, Dr.	Greene, Col.
Jagger, Mr.	Hertzog, Gen.
Merriman, Mr.	Hull, Mr.
Sauer, Mr.	Jameson, Dr.
	Lindsay, Mr.
	Maasdorp, Mr.
	Malan, Mr.
"NOES" 25.	Moor, Mr.
	Smartt, Dr.
Botha, Gen.	Morcom, Mr.
Browne, Mr. A.	Smuts, Gen.
Burger, Gen.	Smythe, Mr.
De la Rey, Gen.	Stanford, Col.
De Villiers, Sir J. H.	Steyn, Mr.
De Wet, Gen.	Van Heerden, Mr.
Farrar, Sir G. H.	Walton, Mr.

The amendment accordingly negatived.

The amendments proposed by Mr. Jagger and Gen. Hertzog put and negatived.

Paragraph as moved [page 14], put and agreed to.

On paragraph (v) [pages 14-15.],

Mr. Sauer moved: After "Parliament" to omit "or the Governor-General-in-Council."

After discussion,

This amendment was put and agreed to.

Mr. Hyslop moved: After "Constitution or" to insert "by."

Agreed to.

Paragraph as amended, put and agreed to, viz:

All powers and functions which at the establishment of the Union are vested in the Governor of a Colony, or in the Governor of a Colony with the advice of the Executive Council, or in any authority of a Colony, shall, as far as the same continue in existence and capable of being exercised after the Union, be vested in the Governor-General or in the Governor-General-in-Council, or in the authority exercising similar powers under the Union, as the case requires, except such powers and functions as are by the Constitution or by a law of the Parliament delegated to some other authority.

11. On the motion of Mr. Sauer, the Convention adjourned at half-past twelve o'clock, p.m., until Monday, the 19th instant, at half-past nine o'clock, a.m.

DURBAN, *Monday*, 19TH *October*, 1908.

Half past nine o'clock, a.m.

1. All the Members were present.

2. Minutes of previous meeting, after being amended in one point, were confirmed.

3. *The President* read the following draft of a letter which he proposed to write to His Excellency the High Commissioner on behalf of the Convention:-

> I am requested by the Members of the South African National Convention, over which I have the honour to preside, to ask you to convey to His Majesty the King their expression of their loyal gratitude for the gracious sympathy with the people of South Africa in this important period of their history so signally manifested by His Majesty in commanding the Cruiser Squadron under Rear-Admiral Sir Percy Scott, K.C.V.O., to proceed to Durban to greet the Convention.
>
> They desire me also to ask you to inform His Majesty's Government, and the Lords Commissioners of the Admiralty, how greatly the presence of the Cruiser Squadron at Durban,

and the goodwill which its presence betokens, are appreciated by them.

Ordered accordingly.

4. *The President* read and put in a letter, dated the 16th instant, from S. Estcourt, Rosmead Junction, making an offer of land at that place provided the Federal Capital is established there.

5. *The President* read and put in a telegram from the Secretary, Hoofd Bestuur, Zuid Afrikaanse Taalbond, Riebeek West, on the subject of affording equal rights to the English and Dutch languages.

6. *Gen. Hertzog* moved: In order to effect a Closer Union of the Colonies represented at this Convention, and in order fully to attain the object of its establishment, it is essential that both English and Dutch be recognised as the official languages of the Union; to be treated on a footing of equality and to possess and enjoy equal freedom, rights and privileges in all the various offices, functions and services of whatsoever kind or nature of or administered by or under the Union; and that all the records, journals and proceedings of the Union Legislatures, as likewise all Bills and Laws of the Union, and all official notifications of general public importance or interest published in the *Gazette*, or otherwise, shall be issued and published in both the English and the Dutch language.

After discussion,

Mr. Jagger moved as an amendment: That the motion be referred to a Committee consisting of Gen. Hertzog, Col. Greene, Gen. Smuts, Dr. Jameson, and the President.

On the motion of Mr. Merriman,

The debate was adjourned until to-morrow.

7. *Mr. Merriman* moved: The legislative power of the Union shall be vested in a Parliament to be styled the Parliament of South Africa and to be composed of the King, a Legislative Council, and a House of Assembly.

Mr. Fischer moved, as an amendment: In the first line, after "legislative," to insert "supreme"; to omit "Legislative Council" and substitute "Senate"; and to omit "Assembly" and substitute "Representatives."

Gen. Smuts moved, as a further amendment: To omit "Assembly" and substitute "Commons."

After discussion,

With leave of the Convention,

The amendment proposed by Mr. Fischer, to insert the word "supreme," was withdrawn.

The amendment by Mr. Fischer to omit "Legislative Council" and substitute "Senate" put and agreed to.

The amendment by Gen. Smuts to omit "Assembly" and substitute "Commons" put, and the Convention divided:

"AYES" 10.	"NOES" 18.
Burger, Gen.	De Wet, Gen.
Farrar, Sir G. H.	Fischer, Mr.
Fitzpatrick, Sir J. P.	Hertzog, Gen.
Greene, Col.	Hull, Mr.
Jameson, Dr.	Hyslop, Mr.
Lindsay, Mr.	Jagger, Mr.
Moor, Mr.	Maasdorp, Mr.
Smartt, Dr.	Malan, Mr.
Smuts, Gen.	Merriman, Mr.
Walton, Mr.	Morcom, Mr.
	Sauer, Mr.
	Smythe, Mr.
	Stanford, Col.
	Steyn, Mr.
	Van Heerden, Mr.
	Beck, Dr.
	Browne, Mr.
	De la Rey, Gen.

The amendment accordingly negatived.

The amendment by Mr. Fischer, to omit "Assembly" and substitute "Representatives" put, and the Convention divided:

"AYES" 13.	"NOES" 16.
Botha, Gen.	Beck, Dr.
Burger, Gen.	Browne, Mr.
De la Rey, Gen.	Farrar, Sir G. H.
De Wet, Gen.	Fitzpatrick, Sir J. P
Fischer, Mr.	Hull, Mr.
Greene, Col.	Jagger, Mr.
Hertzog, Gen.	Jameson, Dr.
Hyslop, Mr.	Lindsay, Mr.
Moor, Mr.	Maasdorp, Mr.
Morcom, Mr.	Malan, Mr.
Smuts, Gen.	Merriman, Mr.
Smythe, Mr.	Sauer, Mr.
Steyn, Mr.	Smartt, Dr.
	Stanford, Col.
	Van Heerden, Mr.
	Walton, Mr.

The amendment accordingly negatived.

The President then put the motion as amended, which was agreed to, viz.:—

The legislative power of the Union shall be vested in a Parliament, to be styled the Parliament of South Africa, and to be composed of the King, a Senate, and a House of Assembly.

8. *Mr. Merriman* moved: It shall be competent for the Parliament of South Africa to make laws for the peace, order and good government of South Africa, and to provide by means of taxation or otherwise for the same, and to alter, repeal, or amend all laws at the date of this Union existing or in force in any Colony forming part of such Union, save and except any laws dealing with the franchise or qualifications of electors, existing at the date of such Union in any Colony forming part thereof, which laws shall not be altered except in the manner prescribed for altering the constitution of the Union.

Discussion ensued.

Business suspended at half-past twelve o'clock p.m.

Half-past three o'clock p.m.

Business resumed.

9. The following members were nominated by the respective Prime Ministers to form the Committee on Statistics, appointed by a resolution adopted on the 16th instant [page 14.], viz.: *Cape of Good Hope*, Mr. Walton; *Transvaal*, Mr. Hull; *Natal*, Mr. Hyslop; *Orange River Colony*, Mr. Browne. Sir W. H. Milton intimated that he would represent *Rhodesia*.

On the motion of Mr. Hyslop,

Mr. Browne was appointed convener.

10. Debate on Mr. Merriman's motion on the powers of the Parliament [printed above] resumed.

Col. Stanford moved, as an amendment: To omit all the words after "part of such Union," and substitute "All subjects of His Majesty resident in South Africa shall be entitled to franchise rights, irrespective of race or colour, upon such qualifications as may be determined by this Convention."

Mr. Lindsay moved, as a further amendment: That the motion read as follows:—"The Parliament of South Africa shall have full power to make laws for the peace, order and good government of South Africa."

Mr. Hyslop moved: To add at the end of Mr. Lindsay's amendment, "save and except laws dealing with local matters, and such others as may under the Constitution be specially reserved to be dealt with by each Province separately."

After discussion,

The amendment proposed by Mr. Lindsay was put and agreed to, and the original motion accordingly dropped.

The amendment proposed by Mr. Hyslop was put, and the Convention divided:

"AYES" 3.	Fitzpatrick, Sir J. P.
	Greene, Col.
Hyslop, Mr.	Hertzog, Gen.
Morcom, Mr.	Hull, Mr.
Smythe, Mr.	Jagger, Mr.
	Jameson, Dr.
	Lindsay, Mr.
"NOES" 27.	Maasdorp, Mr.
	Malan, Mr.
Beck, Dr.	Merriman, Mr.
Botha, Gen.	Moor, Mr.
Browne, Mr.	Sauer, Mr.
Burger, Gen.	Smartt, Dr.
De la Rey, Gen.	Smuts, Gen.
De Villiers, Sir J. H.	Stanford, Col.
De Wet, Gen.	Steyn, Mr.
Farrar, Sir G. H.	Van Heerden, Mr.
Fischer, Mr.	Walton, Mr.

The amendment accordingly negatived.

With leave of the Convention,

Col. Stanford withdrew his amendment, and gave notice to move the proposed insertion to-morrow as a substantive motion.

11. *Mr. Merriman* moved: All and singular the debts and liabilities of the Governments of the several Colonies at the time of the Union shall be assumed by, and shall become liabilities of, the general Government, and all assets of the several Governments forming the Union, including Crown Lands, Buildings, Railways and Harbour Works, shall be vested in the general Government of such Union, save and except those Buildings and Works which shall appertain to the objects in respect of which the Provincial Councils shall have the jurisdiction assigned to them.

Discussion ensued.

On the motion of Mr. Hyslop,

The debate was adjourned until to-morrow.

12. On the motion of Mr. Malan, the Convention adjourned at half-past five o'clock p.m.

DURBAN, *Tuesday*, 20TH *October*, 1908.

Half-past nine o'clock a.m.

1. All the members were present.

2. Minutes of the previous meeting confirmed.

3. *Mr. Malan* presented a petition from the Head Committee of the Afrikaansche Christelijke Vrouwen Vereeniging, in favour of equal rights for the English and Dutch languages.

The petition was read.

4. *The President* presented a similar petition from the Orange Women's Union, which was read.

5. *Mr. Moor* presented a petition from 1,415 members of the Natal Women's Enfranchisement Committee, praying that citizenship in United South Africa may be granted to all women who possess the same qualifications as may be required of men.

The petition was read.

6. *Mr. Malan* presented a similar petition from 658 men and women of the Cape Colony, which was read.

7. Adjourned debate on motion by Gen. Hertzog on equal rights of English and Dutch languages [page 18.] resumed.

The President stated that when this debate was adjourned yesterday the question before the Convention was:

In order to effect a Closer Union of the Colonies represented at this Convention, and in order fully to attain the object of its establishment, it is essential that both English and Dutch be recognised as the official languages of the Union; to be treated on a footing of equality and to possess and enjoy equal freedom, rights and privileges in all the various offices, functions and services of whatsoever kind or nature of or administered by or under the Union: and that all the records, journals and proceedings of the Union Legislatures, as likewise all Bills and Laws of the Union, and all official notifications of general public importance or interest published in the *Gazette*, or otherwise, shall be issued and published in both the English and the Dutch language.

Upon which an amendment had been moved by Mr. Jagger: That the motion be referred to a Committee consisting of Gen. Hertzog, Col. Greene, Gen. Smuts, Dr. Jameson, and the President.

With leave of the Convention,

The amendment proposed by Mr. Jagger was withdrawn.

Sir George Farrar moved, as an amendment: Both the English and Dutch languages shall be official languages of the Union, and shall be treated on a footing of equality, and possess and enjoy equal freedom, rights and privileges; all records, journals and proceedings of the Union Parliament shall be kept in both languages, and all Bills, Acts and notices of general public importance or interest issued by the Union Government shall be in both languages.

After discussion,

The amendment proposed by Sir George Farrar was put as the main question, and agreed to, and the original motion accordingly dropped.

8. Adjourned debate on motion by Mr. Merriman on Union Assets and Liabilities [page 21.] resumed.

The President stated that when this debate was adjourned yesterday the question before the Convention was:

All and singular the debts and liabilities of the Governments of the several Colonies at the time of the Union shall

be assumed by and shall become liabilities of the general Government, and all assets of the several Governments forming the Union, including Crown Lands, Buildings, Railways and Harbour Works, shall be vested in the general Government of such Union, save and except those Buildings and Works which shall appertain to the objects in respect of which the Provincial Councils shall have the jurisdiction assigned to them.

Debate resumed.

Mr. Hull moved: That the consideration of this motion be postponed until the Committee appointed to report on finance submit their report, and the whole subject of finance relations comes up for consideration.

After discussion,

The motion proposed by Mr. Hull was put and agreed to.

9. *Col. Stanford* moved: All subjects of His Majesty resident in South Africa shall be entitled to franchise rights irrespective of race or colour upon such qualifications as may be determined by this Convention.

Mr. Merriman moved, as an amendment: All laws dealing with the franchise and qualifications of electors at the date of the Union in any Colony shall remain in force until repealed or altered by the Parliament of South Africa, provided that no such repeal or alteration shall take place except such repeal or alteration shall be carried by a majority of not less than three-fourths of the members of both Houses sitting and voting together.

After discussion,

Mr. Merriman proposed to withdraw his amendment.

Mr. Moor objected.

10. *Mr. Hyslop* moved: That the Convention suspend business every morning at eleven o'clock for ten minutes.

Agreed to, and it being eleven o'clock, business was accordingly suspended.

Ten minutes past eleven o'clock a.m.

Business resumed.

11. Discussion on Col. Stanford's motion on franchise rights [printed above] resumed.

Business suspended at half-past twelve o'clock p.m.

Half-past three o'clock p.m.

Business resumed.

12. *The President* presented:

(i) A petition, in three parts, from Cape Coloured people resident on the Witwatersrand, praying that in the Constitution of a United South Africa they may be admitted to equal political rights with the European population.

(ii) A supplementary resolution adopted by Cape coloured people at a public meeting held in Johannesburg on the 16th instant.

13. Discussion on Col. Stanford's motion on franchise rights [page 23.] continued.

Mr. Jagger moved, as an amendment to Mr. Merriman's amendment: To omit all the words after "except," and substitute "with the consent of a majority in both Houses of Parliament of the representatives of such Colony."

Mr. Walton moved: That the debate be adjourned until Thursday.

Mr. Merriman moved, as an amendment: That the debate be adjourned until to-morrow.

Agreed to.

14. On the motion of Dr. Smartt, the Convention adjourned at twenty-five minutes past five o'clock p.m.

DURBAN, *Wednesday*, 21st *October*, *1908*.

Half-past nine o'clock a.m.

1. All the members were present.

2. *Mr. Jagger* presented a petition from 7,200 women of South Africa in opposition to the grant of the Parliamentary franchise to women.

3. Adjourned debate on motion by Col. Stanford on franchise rights [page 23.] resumed.

The President stated that when this debate was adjourned yesterday the question before the Convention was:

All subjects of His Majesty resident in South Africa shall be entitled to franchise rights, irrespective of race or colour, upon such qualifications as may be determined by this Convention.

Upon which an amendment had been moved by Mr. Merriman: All laws dealing with the franchise and qualifications of electors at the date of the Union in any Colony shall remain in force until repealed or altered by the Parliament of South Africa, provided that no such repeal or alteration shall take place except such repeal or alteration shall be carried by a majority of not less than three-fourths of the members of both Houses sitting and voting together.

Upon which amendment, an amendment had been moved by Mr. Jagger: To omit all the words after "except," and substitute "with the consent of a majority in both Houses of Parliament of the representatives of such Colony."

Debate resumed.

With leave of the Convention,

The amendments proposed by Mr. Jagger and Mr. Merriman were withdrawn.

Col. Greene moved, as an amendment: To add "Only persons of European descent shall be eligible for election as members of either House of Parliament."

Business suspended at eleven o'clock a.m.

Ten minutes past eleven o'clock a.m.

Business resumed.

4. Minutes of previous meeting confirmed.

5. *Mr. Browne* reported the action taken by the Statistical Committee and the probable period required to complete their work, and asked the Convention to confirm the arrangement made by the Committee that the Hon. R. H. Brand should act in the capacity of Secretary to the Committee.

Ordered accordingly.

6. Debate on Col. Stanford's motion on franchise rights [page 23.] continued.

Discussion resumed.

Mr. Merriman moved: The adjournment of the debate.

After discussion,

With leave of the Convention,

This motion was withdrawn.

Business suspended at half-past twelve o'clock p.m.

Half-past three o'clock p.m.

Business resumed.

After discussion,

On the motion of Mr. Van Heerden: The debate was adjourned until to-morrow.

7. On the motion of Dr. Smartt, the Convention adjourned at half-past five o'clock p.m.

DURBAN, *Thursday*, 22ND *October*, *1908*.

Half-past nine o'clock a.m.

1. All the members were present.

2. *Mr. Jagger* presented a letter, dated the 16th instant, from the Hon. Dr. J. Petersen, M.L.C., President of the Naturalization Reform Association, Cape Town, asking that the Convention will give full consideration to the necessity of a modification of the existing law on this subject.

The letter was read.

3. *Mr. Sauer* presented a petition from 1,479 men and women of the Cape Colony praying that citizenship in United South Africa may be granted to all women who possess the same qualifications as may be required from men.

The petition was read.

4. Adjourned debate on motion by Col. Stanford on franchise rights [page 23.] resumed.

The President stated that when this debate was adjourned yesterday, the question before the Convention was:

All subjects of His Majesty resident in South Africa shall be entitled to franchise rights irrespective of race or colour upon such qualifications as may be determined by this Convention.

Upon which an amendment had been moved by Col. Greene: To add "Only persons of European descent shall be eligible for election as members of either House of Parliament."

Debate resumed.

Business suspended at eleven o'clock a.m.

Ten minutes past eleven o'clock a.m.

Business resumed.

5. Minutes of previous meeting confirmed.

6. Discussion on Col. Stanford's motion on franchise rights [page 23.] continued.

Sir Percy Fitzpatrick moved: That the debate on this motion be adjourned, and the matter referred to a Committee consisting of two delegates from each Colony, to be appointed by their respective Prime Ministers, and one from Rhodesia, to be appointed by Sir William Milton. That the reference to the Committee be to consider whether the native and coloured population of South Africa should be directly represented in the Legislatures of the Union; if so, in what manner and on what conditions the right of representation should be conferred and exercised; if not, what constitutional provision should be made for enabling the Union Government to ascertain the wishes and consult the interests of the native and coloured population.

Gen. Botha moved: That the original motion, and all the amendments thereon, together with the proposals by Mr. Merriman [page 23], Mr. Jagger [page 24], and Gen. Smuts, viz.:

> The various electoral laws of the Colonies shall, until altered by the Parliament, continue to apply, *mutatis mutandis*, to electors for the House of Assembly in the corresponding provinces, subject to the application of the principle of proportional representation. The qualification of voters in the provinces shall, similarly, be identical with those existing in the Colonies at the establishment of the Union, save in regard to the following matters:
>
> (a) naturalization in any one Colony shall entitle the person naturalised to be registered as a voter in that of any other province;
>
> (b) residence in South Africa for three years previous to registration shall be necessary.

And the amendment proposed thereto by Dr. Beck, viz.:

> in line 5, after "representation," to insert "provided that in so far as these laws apply to native electors in the Cape Colony, there shall be no such alteration, except in the manner prescribed for altering the Constitution of the Union,"

be referred to a Committee with an instruction to prepare the

draft of a resolution in reference thereto for submission to the Convention, and that the Committee consist of two delegates nominated by each Prime Minister and one nominated by Sir William Milton.

7. *The President*, on behalf of the Convention, conveyed to Gen. De la Rey the congratulations of the delegates upon the occasion of his birthday, for which Gen. De la Rey expressed his very cordial thanks.

Business suspended at twenty minutes to one o'clock p.m.

Half-past three o'clock p.m.

Business resumed.

8. Discussion on Col. Stanford's motion on franchise rights [page 23.] continued.

Mr. Fischer moved, as an amendment to Gen. Botha's motion [page 26.]: To add "And that it be an instruction to the Committee that save in so far as may be necessary to safeguard interests where natives have acquired the franchise, or other rights and privileges, it is undesirable and unnecessary that the Committee should frame resolutions in regard to the future native policy of South Africa."

Mr. Sauer moved: That the debate be adjourned, which was put and negatived.

After discussion,

The motion proposed by Gen. Botha was put and agreed to, and the motion proposed by Sir Percy Fitzpatrick accordingly dropped.

The amendment proposed by Mr. Fischer was put and negatived.

9. The following members were then nominated by the respective Prime Ministers to form the Committee just appointed, viz.:

Cape of Good Hope: Mr. Sauer and Mr. Walton; *Natal*: Mr. Smythe and Col. Greene; *Transvaal*: Sir Percy Fitzpatrick and Gen. Smuts; *Orange River Colony*: Gen. Hertzog and Mr. Fischer; Sir William Milton intimated that Mr. Coghlan would represent *Rhodesia*.

10. On the motion of Mr. Jagger, the Convention adjourned at twenty minutes to five o'clock p.m.

DURBAN, *Friday*, 23RD *October*, 1908.

Half-past nine o'clock a.m.

1. All the members were present.

2. *Gen. Smuts* moved: For ten years after the establishment of the Union, and thereafter until Parliament otherwise provides, the Senate shall consist of 36 members, and 9 shall

be elected or nominated in respect of each Province in the manner following.

Mr. Jagger moved, as an amendment: The Senate shall, until the Parliament otherwise decides, consist of 35 Members directly chosen by the voters, and for the purpose of the election of Senators the Union shall be divided into seven electoral areas, namely:

Cape Colony into three areas.
Transvaal into two areas.
Orange River Colony into one area.
Natal into one area.

And each area shall return five members; to be elected by proportional representation.

Mr. Merriman moved, as a further amendment: After "members." in line 3, to omit all the words to the end, and substitute "to be chosen or nominated as follows."

Mr. Hyslop moved, as a further amendment: The Senate shall consist of thirty-six Members and nine shall be chosen by the Legislatures of each Province.

The Parliament may make laws increasing or diminishing the number of Senators for each Province, but so that equal representation of the several original Provinces shall be maintained, and no original Province shall have less than nine Senators.

Discussion ensued.

Business suspended at eleven o'clock a.m.

Ten minutes past eleven o'clock a.m.

Business resumed.

3. Minutes of previous meeting confirmed.

4. On the motion of Mr. Smythe,

Ordered: That the several Colonies shall be recognised in the proceedings of the Convention in the following order, viz.:

Cape of Good Hope,
Natal,
Transvaal.
Orange River Colony.

5. Discussion on Gen. Smuts' motion on constitution of Senate [page 27.] continued.

With leave of the Convention,

The amendment proposed by Mr. Merriman was withdrawn.

Business suspended at half-past twelve o'clock p.m.

Half-past three o'clock p.m.

Business resumed.

6. *Mr. Moor* moved: That the Convention, at its rising today, adjourn until Monday.

Agreed to.

7. Discussion on Gen. Smuts' motion on constitution of Senate [page 27.] continued.

Mr. Fischer moved, as a further amendment: For ten years after the establishment of a Union, and thereafter until Parliament otherwise provides, the Senate shall be composed of nine members for and elected in each of the Provinces constituting the Union, and an additional number, not exceeding nine, to be nominated by the Governor-General-in-Council.

The President moved, as a further amendment: For ten years after the establishment of the Union and thereafter until Parliament otherwise provides the Senate shall consist of thirty-two Senators, to be elected in the manner hereinafter mentioned, and such additional members not exceeding ten in number as shall be nominated by the Governor-General-in-Council: provided that in the selection of persons to be nominated as Senators the Governor-General-in-Council shall as to one-half of their number be guided mainly by their thorough acquaintance, by reason of their past or present official position, or otherwise, with the reasonable wishes and wants of the coloured races in South Africa. As to the remaining half of the nominated Senators, the Governor-General-in-Council shall have regard to their official or judicial experience by selecting only persons who have occupied in South Africa the position of a Judge of a Superior Court, Executive Councillor, Speaker of any House of Assembly, President of any Legislative Council, or Chairman of any Volksraad.

Mr. Fischer moved: That the further consideration of the original motion and the amendments thereon stand over until after the next motion by Gen. Smuts has been decided.

This motion having been put and negatived,

On the motion of Col. Greene,

The debate was adjourned until Monday.

8. *Mr. Jagger* moved: That delegates be allowed to take away draft resolutions, but resolutions already agreed to shall not be taken out of the room.

Col. Greene moved: To add "but the names of the proposers shall be deleted from draft resolutions."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

The original motion put and agreed to.

9. On the motion of Dr. Smartt, the Convention adjourned at half-past five o'clock p.m., until Monday, the 26th instant, at half-past nine o'clock a.m.

DURBAN, *Monday*, 26th *October*, *1908*.

Half-past nine o'clock a.m.

1. All the members were present.

2. *The President* put in:

(i) A letter, dated the 23rd instant, from the Mayor of Kroonstad, inviting the Convention to meet at that place in the contingency of an adjournment from Durban, and for that purpose offering the use of the new municipal buildings there.

(ii) A congratulatory telegram, dated the 23rd instant, from the Head Committee of the South African Women's Federation.

3. Adjourned debate on motion by Gen. Smuts on constitution of Senate [page 27.] resumed.

The President stated that when this debate was adjourned on Friday, the question before the Convention was the following:

For ten years after the establishment of the Union, and thereafter until Parliament otherwise provides, the Senate shall consist of thirty-six members, and nine shall be elected or nominated in respect of each Province in the manner following.

Upon which the following amendments had been moved:

By Mr. Jagger: The Senate shall, until the Parliament otherwise decides, consist of thirty-five members directly chosen by the voters, and for the purpose of the election of Senators the Union shall be divided into seven electoral areas, namely:—

Cape Colony into three areas.
Transvaal into two areas,
Orange River Colony into one area,
Natal into one area;

and each area shall return five members, to be elected by proportional representation.

By Mr. Hyslop: The Senate shall consist of thirty-six members, and nine shall be chosen by the Legislatures of each Province. The Parliament may make laws increasing or diminishing the number of Senators for each Province, but so that equal representation of the several original Provinces shall be maintained and no original Province shall have less than nine Senators.

By Mr. Fischer: For ten years after the establishment of a Union, and thereafter until Parliament otherwise provides, the Senate shall be composed of nine members for and elected in each of the Provinces constituting the Union, and an additional number, not exceeding nine, to be nominated by the Governor-General-in-Council.

By The President: For ten years after the establishment of the Union and thereafter until Parliament otherwise provides the Senate shall consist of thirty-two Senators, to be

elected in the manner hereinafter mentioned, and such additional members, not exceeding ten in number, as shall be nominated by the Governor-General-in-Council, provided that in the selection of persons to be nominated as Senators the Governor-General-in-Council shall as to one-half of their number be guided mainly by their thorough acquaintance, by reason of their past or present official position, or otherwise, with the reasonable wishes and wants of the coloured races in South Africa. As to the remaining half of the nominated Senators the Governor-General-in-Council shall have regard to their official or judicial experience by selecting only persons who have occupied in South Africa the position of a Judge of a Superior Court, Executive Councillor, Speaker of any House of Assembly, President of any Legislative Council or Chairman of any Volksraad.

Debate resumed.

Mr. Malan moved, as an amendment to the President's amendment: To omit "such" before "additional," and substitute "eight"; to omit "members" and substitute "Senators"; to omit "not exceeding ten in number as shall" and substitute "to"; to omit "the reasonable wishes and wants of"; and to add at the end "or permanent head of a Government Department."

Dr. Beck moved, as a further amendment to the President's amendment: To omit all the words after "coloured races in South Africa."

Col. Greene moved: For ten years after the establishment of the Union, and thereafter until Parliament otherwise provides, the Senate shall consist of thirty-six members, and nine shall be elected or nominated from or by each Province in the manner hereinafter mentioned: provided that in the selection of persons to be nominated as Senators the Governor-General-in-Council shall be guided as to one-half mainly by their thorough acquaintance, by reason of their past or present official position, or otherwise, with the needs and requirements of the coloured races in South Africa; as to the remaining half of the nominated Senators the Governor-General-in-Council shall have regard to their official or judicial experience by selecting only persons who have occupied in South Africa the position of a Judge of a Superior Court, Executive Councillor, Speaker of any House of Assembly, President of any Legislative Council, or Chairman of any Volksraad.

Mr. Sauer moved, as a further amendment to the President's amendment: To omit "ten" before "in number" and substitute "eight"; and also to omit all the words from "As to the remaining" to the end.

Sir George Farrar moved, as a further amendment to the President's amendment: To omit "thirty-two" and substitute "twenty-eight"; and to omit "ten" and substitute "twelve."

After discussion,

Sir George Farrar's amendment to omit "thirty-two" and

substitute "twenty-eight" was put, and the Convention divided:

"AYES," 12.	"NOES," 18.
Botha, Gen.	Beck, Dr.
Burger, Gen.	Browne, Mr.
De la Rey, Gen.	De Wet, Gen.
De Villiers, Sir J. H.	Fischer, Mr.
Farrar, Sir G. H.	Greene, Col.
Fitzpatrick, Sir J. P.	Hertzog, Gen.
Hull, Mr.	Hyslop, Mr.
Jameson, Dr.	Jagger, Mr.
Lindsay, Mr.	Maasdorp, Mr.
Smartt, Dr.	Malan, Mr.
Smuts, Gen.	Merriman, Mr.
Walton, Mr.	Moor, Mr.
	Morcom, Mr.
	Sauer, Mr.
	Smythe, Mr.
	Stanford, Col.
	Steyn, Mr.
	Van Heerden, Mr.

The amendment accordingly negatived.

With leave of the Convention,

The remainder of Sir George Farrar's amendment was withdrawn.

Mr. Sauer's amendment to omit the last paragraph of the President's amendment put, and the Convention divided:

"AYES," 16.	"NOES," 14.
Beck, Dr.	Botha, Gen.
Browne, Mr.	Burger, Gen.
De Villiers, Sir J. H.	De la Rey, Gen.
De Wet, Gen.	Farrar, Sir G. H.
Fischer, Mr.	Fitzpatrick, Sir J. P.
Hertzog, Gen.	Greene, Col.
Hyslop, Mr.	Hull, Mr.
Jagger, Mr.	Jameson, Dr.
Maasdorp, Mr.	Lindsay, Mr.
Malan, Mr.	Morcom, Mr.
Merriman, Mr.	Smartt, Dr.
Moor, Mr.	Smuts, Gen.
Sauer, Mr.	Smythe, Mr.
Stanford, Col.	Walton, Mr.
Steyn, Mr.	
Van Heerden, Mr.	

This amendment accordingly agreed to, and the amendment proposed by Dr. Beck, as well as the last part of Mr. Malan's amendment to add words at the end, accordingly dropped.

That part of Mr. Malan's amendment relating to the num-

ler of members of the Senate put and agreed to, and that part of Mr. Sauer's amendment relating thereto accordingly dropped.

With leave of the Convention,

Col. Greene's amendment was withdrawn.

Mr. Malan's amendment to omit "the reasonable wishes and wants of" put and negatived.

Mr. Fischer moved, as a further amendment to the President's amendment: To omit "past or present"; and to omit "position" and substitute "experience."

Agreed to.

The President's amendment, as amended, was then put as the main question and agreed to, viz.:

For ten years after the establishment of the Union, and thereafter until Parliament otherwise provides, the Senate shall consist of thirty-two Senators, to be elected in the manner hereinafter mentioned, and eight additional Senators to be nominated by the Governor-General-in-Council: provided that in the selection of persons to be nominated as Senators the Governor-General-in-Council shall as to one-half of their number be guided mainly by their thorough acquaintance, by reason of their official experience, or otherwise, with the reasonable wishes and wants of the coloured races in South Africa.

The original motion, and the remaining amendments thereon accordingly dropped.

4. *Gen. Smuts* moved: In respect of each Province, four of the elective Senators shall be elected by the members of the House of Assembly by proportional representation, and four shall be elected in the case of the first Parliament by proportional representation by the Parliament of each Colony as existing at the date of the establishment of the Union, the two Houses sitting and voting together, and thereafter the last mentioned four Senators shall be elected by proportional representation by the Provincial Councils.

Mr. Jagger moved, as an amendment: In respect of each Province, eight of the elective Senators shall, in the case of the first Parliament, be elected by a proportional representation method by the Legislature of the Colony, both Houses sitting as one body, and thereafter shall be elected by a proportional representation system by the Provincial Council.

Sir Percy Fitzpatrick moved: In respect of each Province, one-fourth of the elective Senators shall be elected by each Province voting by proportional representation as one constituency.

Mr. Merriman moved: In respect of each Province, four of the elective Senators shall be elected by the members of the House of Assembly, and four, in the case of the first Parliament, shall be elected by means of proportional representation by the Parliament of each Colony, the two Houses sitting and voting together, and thereafter such members shall be elected by proportional representation by the Provincial Councils.

Discussion ensued.

Business suspended at eleven o'clock a.m.

Ten minutes past eleven o'clock a.m.

Business resumed.

5. Minutes of previous meeting confirmed.

6. *The President* put in a telegram of congratulation from the Klipspruit Branch (Aliwal North) of the Afrikander Bond.

7. Discussion on Gen. Smuts' motion on election of Senators [page 33.] continued.

With leave of the Convention,

The amendment proposed by Mr. Merriman was withdrawn.

Mr. Fischer moved: Each Province of the Union shall elect eight Senators on the principle of proportional representation; the mode of such election shall in regard to the first election be determined by the existing Legislature of each Colony constituting the Union, and thereafter by the Provincial Legislature.

Mr. Browne moved: To add to the original motion "Of the eight Senators to be nominated by the Governor-General-in-Council one at least shall be selected from each Province."

8. *Mr. Steyn* moved: That the Convention do now adjourn to enable the Franchise Committee to continue their deliberations.

After discussion,

With leave of the Convention,

This motion was withdrawn.

9. Discussion on Gen. Smuts' motion on election of Senators [page 33.] continued.

Business suspended at half-past twelve o'clock p.m.

Half-past three o'clock p.m.

Business resumed.

Discussion on Gen. Smuts' motion on election of Senators [page 33.] continued.

Mr. Lindsay moved: The eight Senators to be elected for each Province shall be elected by proportional representation by the Parliament of each Colony existing at the time of the Union, both Houses sitting together, and they shall hold office for ten years; the Parliament of South Africa to determine the manner of election thereafter. Any vacancy occurring in the number of Senators during such ten years to be filled by election by the Provincial Council of the Province concerned.

Dr. Smartt moved: For the first Parliament, eight Senators shall be elected for each Province by proportional representation by the then existing Legislature of each Colony, the two Houses sitting as one body, and thereafter the elective members of the Senate shall be elected by proportional representation in the manner following, viz.: The Colony of the Cape

of Good Hope shall be divided into three Provinces, the Transvaal into two Provinces, and Natal and the Orange River Colony shall each form one Province. The qualification for an elector for the Senate shall be as follows: (a) he must be a male of 25 years of age; (b) qualified as an elector for the Legislative Assembly; (c) the owner or occupier of immovable property of the value of not less than £500, or in receipt of a salary of not less than £120 per annum.

10. On the motion of Mr. Sauer, the Convention suspended business at twenty minutes past four o'clock p.m., until it should be called together in order to enable a Committee to consider the original motion and the amendments thereon and to draft a proposal upon them for submission to the Convention, the Committee consisting of Mr. Merriman, Dr. Jameson, Mr. Moor, Mr. Hyslop, General Botha, Sir Percy Fitzpatrick, Mr. Fischer, Mr. Browne, and the President; the President to be Chairman.

And the Convention having re-assembled at twenty minutes past five o'clock p.m.,

The President reported that the Committee had not yet succeeded in arriving at any definite conclusion.

11. On the motion of Dr. Smartt, the Convention thereupon adjourned in order to enable the Committee to continue their deliberations.

DURBAN, *Tuesday*, 27TH *October, 1908.*

Half-past nine o'clock a.m.

1. All the members were present.

2. Adjourned debate on motion by Gen. Smuts on Election of Senators [page 33.] resumed.

The President stated that when this debate was adjourned yesterday, the question before the Convention was the following:

In respect of each Province, four of the elective Senators shall be elected by the members of the House of Assembly by proportional representation, and four shall be elected in the case of the first Parliament by proportional representation by the Parliament of each Colony as existing at the date of the establishment of the Union, the two Houses sitting and voting together, and thereafter the last mentioned four Senators shall be elected by proportional representation by the Provincial Councils.

Upon which motion amendments had been moved by: Mr. Jagger [page 33.]; Sir Percy Fitzpatrick [page 33.]; Mr. Fischer [page 34.]; Mr. Browne [page 34.]; Mr. Lindsay [page 34.]; and Dr. Smartt [page 34.]; and that a Committee had been appointed to consider the original motion and the

amendments thereon, and to draft a proposal on them [page 35.].

The President then submitted the draft of a resolution adopted yesterday by the Committee, viz.:

There shall be eight elective Senators for each Province. For the purpose of electing the first thirty-two Senators the Houses of Parliament of each Province as existing at the establishment of the Union, sitting together and voting on the system of proportional representation shall elect not fewer than eight and not more than sixteen candidates, from among whom the Governor-General-in-Council shall select the requisite eight Senators for each Province.

The said Senators shall hold office for six years. Parliament shall fix and determine the manner in which the eight Senators for each Province shall thereafter be elected, and the manner in which vacancies shall in the meantime be filled up.

The President moved: That the proposal of the Committee now submitted stand in lieu of the original motion and the several amendments thereon.

Agreed to.

Mr. Hyslop moved, as an amendment to the Committee's proposal: After "elected" to insert "by such Province."

Upon which the Convention divided:

"AYES," 17.	"NOES," 13.
Browne, Mr.	Beck, Dr.
De Villiers, Sir J. H.	Botha, Gen.
De Wet, Gen.	Burger, Gen.
Fischer, Mr.	De la Rey, Gen.
Fitzpatrick, Sir J. P.	Farrar, Sir G. H.
Greene, Col.	Hull, Mr.
Hertzog, Gen.	Jagger, Mr.
Hyslop, Mr.	Jameson, Dr.
Maasdorp, Mr.	Lindsay, Mr.
Malan, Mr.	Merriman, Mr.
Moor, Mr.	Smartt, Dr.
Morcom, Mr.	Smuts, Gen.
Sauer, Mr.	Stanford, Col.
Smythe, Mr.	
Steyn, Mr.	
Van Heerden, Mr.	
Walton, Mr.	

The amendment accordingly agreed to.

Mr. Sauer moved, as an amendment: To omit "in the meantime," and substitute "during the said period of six years."

Agreed to.

Gen. Smuts moved, as an amendment: To omit "thereafter" and substitute "for a further period of four years."

Upon which the Convention divided:

"AYES," 23.

Beck, Dr.
Botha, Gen.
Browne, Mr.
Burger, Gen.
De la Rey, Gen.
De Villiers, Sir J. H.
De Wet, Gen.
Farrar, Sir G. H.
Fitzpatrick, Sir J. P.
Hull, Mr.
Jagger, Mr.
Jameson, Dr.
Lindsay, Mr.
Maasdorp, Mr.
Malan, Mr.
Merriman, Mr.
Sauer, Mr.
Smartt, Dr.
Smuts, Gen.
Stanford, Col.
Steyn, Mr.
Van Heerden, Mr.
Walton, Mr.

"NOES," 7.

Fischer, Mr.
Greene, Col.
Hertzog, Gen.
Hyslop, Mr.
Moor, Mr.
Morcom, Mr.
Smythe, Mr.

The amendment accordingly agreed to.

The proposal submitted by the Committee, and moved by the President, was then put, as amended, as the main question, and agreed to as follows:

There shall be eight elective Senators for each Province. For the purpose of electing the first thirty-two Senators the Houses of Parliament of each Province as existing at the establishment of the Union, sitting together and voting on the system of proportional representation, shall elect not fewer than eight and not more than sixteen candidates, from among whom the Governor-General-in-Council shall select the requisite eight Senators for each Province.

The said Senators shall hold office for six years. Parliament shall fix and determine the manner in which the eight Senators for each Province shall for a further period of four years be elected by such Province, and the manner in which vacancies shall during the said period of six years be filled up.

The original motion proposed by Gen. Smuts, and the amendments thereon, accordingly dropped.

3. *Mr. Hyslop* moved: Parliament may make laws increasing or diminishing the number of Senators for each Province, but so that equal representation of the several original Provinces shall be maintained, and no original Province shall have less than eight Senators.

After discussion,

This motion was put, and the Convention divided:

"AYES," 5.	Farrar, Sir G. H.
	Fischer, Mr.
Greene, Col.	Fitzpatrick, Sir J. P.
Hyslop, Mr.	Hertzog, Gen.
Moor, Mr.	Hull, Mr.
Morcom, Mr.	Jagger, Mr.
Smythe, Mr.	Jameson, Dr.
	Lindsay, Mr.
	Maasdorp, Mr.
"NOES," 25.	Malan, Mr.
	Merriman, Mr.
Beck, Dr.	Sauer, Mr.
Botha, Gen.	Smartt, Dr.
Browne, Mr.	Smuts, Gen.
Burger, Gen.	Stanford, Col.
De la Rey, Gen.	Steyn, Mr.
De Villiers, Sir J. H.	Van Heerden, Mr.
De Wet, Gen.	Walton, Mr.

The motion accordingly negatived.

4. *Gen. Smuts* moved: The qualifications of a Senator shall be as follows:

He must be:

(a) Thirty years of age;

(b) Qualified to be registered as an elector in one of the Provinces:

(c) Five years resident in the Union;

(d) A British subject;

(e) Owner of immovable property within the Union of the value of not less than £500 over and above his debts and liabilities.

Mr. Jagger moved, as an amendment: To insert before "Owner," in sub-section (e), "In the case of an elected Senator."

Dr. Smartt moved, as an amendment: In sub-section (e) to omit all the words after "less than" and substitute "£2,000 over all special conventional mortgages, or be the owner of movable or immovable property to the value of £4,000 over and above his just debts."

Mr. Fischer moved, as an amendment: To insert a new sub-section (a), "He must be of European descent."

Col. Greene moved: To add to sub-section (d) "of European descent."

After discussion,

With leave of the Convention,

The amendment proposed by Mr. Fischer was withdrawn.

The amendment proposed by Mr. Jagger put and agreed to.

Dr. Smartt's amendment put, and the Convention divided:

"AYES," 13.	"NOES," 17.
Beck, Dr.	Botha, Gen.
Greene, Col.	Browne, Mr.
Hyslop, Mr.	Burger, Gen.
Jameson, Dr.	De la Rey, Gen.
Maasdorp, Mr.	De Villiers, Sir J. H.
Merriman, Mr.	De Wet, Gen.
Moor, Mr.	Farrar, Sir G. H.
Morcom, Mr.	Fischer, Mr.
Smartt, Dr.	Fitzpatrick, Sir J. P.
Smythe, Mr.	Hertzog, Gen.
Stanford, Col.	Hull, Mr.
Van Heerden, Mr.	Jagger, Mr.
Walton, Mr.	Lindsay, Mr.
	Malan, Mr.
	Sauer, Mr.
	Smuts, Gen.
	Steyn, Mr.

The amendment accordingly negatived.

The amendment proposed by Col. Greene put and agreed to.

Mr. Lindsay moved: In sub-section (e), to omit all the words after "over and above" and substitute "any conventional or special mortgages thereon."

Agreed to.

Dr. Beck moved: To omit "£500" and substitute "£1,000."

Upon which the Convention divided:

"AYES," 16.	"NOES," 14.
Beck, Dr.	Browne, Mr.
Botha, Gen.	Burger, Gen.
De Villiers, Sir J. H.	De la Rey, Gen.
Fitzpatrick, Sir J. P.	De Wet, Gen.
Greene, Col.	Farrar, Sir G. H.
Hyslop, Mr.	Fischer, Mr.
Jameson, Dr.	Hertzog, Gen.
Maasdorp, Mr.	Hull, Mr.
Merriman, Mr.	Jagger, Mr.
Moor, Mr.	Lindsay, Mr.
Morcom, Mr.	Malan, Mr.
Smartt, Dr.	Sauer, Mr.
Smythe, Mr.	Smuts, Gen.
Stanford, Col.	Steyn, Mr.
Van Heerden, Mr.	
Walton, Mr.	

The amendment accordingly agreed to.

Mr. Sauer moved: To insert before "Owner," at the beginning of sub-section (e), "The registered."

Agreed to.

Motion, as amended, put and agreed to, viz.:—

The qualifications of a Senator shall be as follows:—

He must be:

(a) Thirty years of age;

(b) Qualified to be registered as an elector in one of the Provinces:

(c) Five years resident in the Union;

(d) A British subject of European descent;

(e) In the case of an elected Senator the registered owner of immovable property within the Union of the value of not less than £1,000 over and above any conventional or special mortgages thereon.

5. *Gen. Smuts* moved: The Senate shall choose one of their number to be President of the Senate, who shall hold office till the next election of Senators, subject to removal by a vote of the Senate.

Col. Stanford moved, as an amendment: The Chief Justice of the Supreme Court of South Africa shall be *ex officio* the President of the Senate.

Mr. Jagger moved: To omit "the next election of Senators" and substitute "he ceases to be a Senator."

After discussion,

With leave of the Convention,

The amendment proposed by Col. Stanford was withdrawn.

Business suspended at eleven o'clock a.m.

Ten minutes past eleven o'clock a.m.

Business resumed.

6. Minutes of previous meeting confirmed.

7. Discussion on General Smuts' motion on President of Senate [printed above] continued.

Mr. Walton moved: To omit "till the next election of Senators" and substitute "until the end of his term of office as Senator and thereafter until his successor is appointed."

After discussion,

The President put the question: That the words proposed to be omitted stand part of the motion, which passed in the negative, and the words were accordingly omitted.

With leave of the Convention,

The amendment proposed by Mr. Jagger was withdrawn.

The President then put the substitution in lieu of the words omitted, of the words proposed by Mr. Walton, which was agreed to.

Mr. Malan moved: To omit "President" and substitute "Speaker."

This amendment put and negatived.

Motion, as amended, put and agreed to, viz.:

The Senators shall choose one of their number to be President of the Senate, who shall hold office until the end of his term of office as Senator and thereafter until his successor is appointed, subject to removal by a vote of the Senate.

8. *Mr. Malan* moved: The Senators to be nominated by the Governor-General-in-Council without reference to the Parliaments in existence at the establishment of the Union shall be so nominated for a period of six years, and thereafter for a further period of four years.

Dr. Smartt moved, as an amendment: To omit "six" and substitute "ten," and to omit all the words from "and thereafter" to the end.

After discussion,

This amendment was put and agreed to.

Motion, as amended, put and agreed to, viz.:

The Senators to be nominated by the Governor-General-in-Council without reference to the Parliaments in existence at the establishment of the Union shall be so nominated for a period of ten years.

9. *Mr. Fischer* moved: Questions arising in the Senate shall be determined by a majority of votes, and each Senator shall have one vote. The President shall in all cases be entitled to a vote, and when the votes are equal the question shall pass in the negative.

Mr. Sauer moved: To omit the last paragraph and substitute "In case of an equality of votes the President shall not have a deliberative vote, but only a casting vote."

Gen. Smuts moved: All questions in the Senate shall be determined by a majority of the votes of members present other than the President or presiding member, who shall, however, have and exercise a casting vote in case of an equality of votes.

After discussion,

With leave of the Convention,

The original motion, and the amendment thereon, were withdrawn in favour of the last amendment, which was put as the main question and agreed to.

10. *Gen. Smuts* moved: The House of Assembly shall be composed of members directly chosen by the voters of the Union, and the number of such members shall be as nearly as practicable three times the number of the Senators.

Mr. Merriman moved, as an amendment: To omit all the words after "such members shall" and substitute "until otherwise ordered by Parliament be as near as possible one hundred and twenty"

Mr. Fischer moved: The House of Assembly shall be directly chosen by the voters of the Union for a period of ten years, and thereafter until Parliament shall otherwise decide the members shall be distributed among the Provinces in manner hereinafter mentioned.

Business suspended at half-past twelve o'clock p.m.

Half-past three o'clock p.m.

Business resumed.

Gen. Smuts moved: That the further consideration of this

motion stand over until after the next two notices on the paper in his name have been discussed.

Agreed to.

Gen. Smuts moved: The members of the House of Assembly shall be distributed among the Provinces in proportion to the respective numbers of their registered white voters, and shall be quadrennially redistributed on the same basis. All fractional quotients shall be disregarded and shall be given to the Province with the smallest number of white voters.

Mr. Merriman moved: To omit all the words after "numbers of their" and substitute "European population, and after each census shall be redistributed on the same basis. All fractional quotients in excess of one-half shall be taken as a unit of redistribution."

Discussion ensued.

On the motion of Dr. Smartt,

The debate was adjourned until to-morrow.

12. On the motion of Mr. Van Heerden, the Convention adjourned at a quarter-past five o'clock p.m.

DURBAN, *Wednesday*, 28th *October, 1908.*

Half-past nine o'clock a.m.

1. All the members were present.

2. *Mr. Merriman* presented a petition from the African Political Organisation of coloured people resident in the Cape Colony, praying that the principle of equal rights to all civilised persons in South Africa may be embodied in the Constitution of the Union.

The petition was read.

3. Adjourned debate on motion by Gen. Smuts on distribution of members [printed above] resumed.

The President stated that when this debate was adjourned yesterday, the question before the Convention was a motion by Gen. Smuts, viz.:

The members of the House of Assembly shall be distributed among the Provinces in proportion to the respective numbers of their registered white voters, and shall be quadrennially re-distributed on the same basis. All fractional quotients shall be disregarded and shall be given to the Province with the smallest number of white voters.

Upon which the following amendment had been moved by Mr. Merriman:

To omit all the words after "numbers of their" and substitute "European population, and after each census shall be re-distributed on the same basis. All fractional quotients in excess of one-half shall be taken as a unit of re-distribution."

Debate resumed.

After discussion,

Mr. Sauer moved: That the motions moved by Gen. Smuts on composition of House of Assembly [page 41.] and on distribution of members [page 42.], together with the amendments thereon, and the motions on electoral areas and election of members, of which Gen. Smuts has given notice, viz.:

> The members of the House of Assembly in each Province shall be chosen in electoral areas to be delimited on the principle that in each area the proportion between the number of members to be chosen therein and the number of registered voters therein shall as far as practicable be identical.
>
> The members of the House of Assembly shall be elected according to the principles of proportional representation. Each electoral area shall return not less than three members.

be referred to a Committee for consideration, the Committee to consist of the President, the Prime Ministers of the four Colonies concerned, and two Delegates nominated by each Prime Minister.

Mr. Fischer moved, as an amendment: That the Committee consist of the President, the Prime Ministers, and one Delegate nominated by each.

This amendment, having been put and negatived,

The motion proposed by Mr. Sauer was put and agreed to.

Members of the Committee were then nominated as follows: *Cape of Good Hope*: Dr. Jameson and Mr. Sauer; *Natal*: Col. Greene and Mr. Hyslop; *Transvaal*, Sir George Farrar and Gen. Smuts; *Orange River Colony*: Gen. Hertzog and Mr. Browne.

4. Minutes of previous meeting confirmed.

5. *Mr. Malan* moved: That the Convention do now adjourn until half-past three o'clock p.m.

Sir George Farrar moved, as an amendment: That the Convention do now adjourn until to-morrow.

And this amendment having been put and agreed to, the Convention accordingly adjourned at half-past ten o'clock a.m.

DURBAN, *Thursday*, 29TH *October*, 1908.

Half-past three o'clock p.m.

1. All the members were present.

2. Minutes of previous meeting confirmed.

3. The President stated that, as the Committee appointed to consider the question of the constitution of the Assembly had adjourned yesterday afternoon until this morning, there was no quorum present at the usual hour of meeting to-day, and that he had accordingly adjourned the Convention this morning until the hour for the afternoon sitting.

4. *Gen. Botha* presented a petition from the African Political Organization of Coloured People resident in the

Transvaal, praying that the principle of equal rights to all civilized persons in South Africa may be embodied in the Constitution of the Union.

5. *Col. Stanford* moved: That the petitions of the African Political Organizations of Coloured People resident in the Cape Colony and The Transvaal, presented yesterday and to-day, be referred to the Committee on the Franchise.

Agreed to.

6. *The President* laid on the Table the resolutions adopted by the Committee appointed yesterday [page 43.] on the Constitution of the House of Assembly in substitution of the motions proposed by Gen. Smuts on composition of the House of Assembly [page 41.] and on distribution of members [page 42.] as well as the motions on electoral areas and election of members [page 43.], of which he had given notice and the Orders of the Day for the resumption of the debate on the two first motions were accordingly discharged.

The President read the resolutions as follows:—

1. The House of Assembly shall be composed of members directly chosen by the voters of the Union, and subject to the provisions hereinafter mentioned, the said members shall be 121 in number.
2. For the period hereinafter mentioned the members of the House of Assembly shall be allotted to the several Provinces in the following proportions:—

Cape of Good Hope	51
Natal	17
The Transvaal	36
Orange River Colony	17.

3. Until the number of members of the House of Assembly has been increased as hereinafter provided to 150 the representation of no original Province in the House of Assembly shall be less than that specified in the foregoing resolution.
4. In 1911, and every five years thereafter, a census of the white population of the Union shall be taken for the purpose of the Constitution. Immediately after the completion of each such census a readjustment of members of the House of Assembly among the Provinces shall take place in the following manner:— The total number of white male adults of the Union at the last census before such readjustment shall be divided by the number of members of the House of Assembly to give the quota. Every Province whose total number of white male adults has increased since the last census, so that, after deducting therefrom the quota multiplied by the number of members representing it in the House of Assembly, it has a surplus above the number of white male adults at the last preceding census equal to at least the quota or any multiple thereof, shall be entitled to an addi-

tional member, or additional number of members equal to such multiple in respect of any such increase. No such additional member or members shall, however, be elected before the first general election following such re-adjustment. As soon as the number of members of the House of Assembly reaches the total of 150, no further increase of representation shall be given to any Province, unless Parliament otherwise provides.

Resolution No. 1 [page 44] put and agreed to.

Resolution No. 2 [page 44] put and, after discussion, agreed to.

Resolution No. 3 [page 44] put and agreed to.

Resolution No. 4 [page 44] put.

Mr. Malan moved, as an amendment: After the words "white male adults of the Union" to insert "being British subjects, but not being members on active service of the Imperial Military or Naval Forces."

After discussion,

The President put the insertion of the words "being British subjects,"

Upon which the Convention divided:

"AYES," 9.	Burger, Gen.
	De la Rey, Gen.
De Wet, Gen.	De Villiers, Sir J. H.
Fischer, Mr.	Farrar, Sir G. H.
Hertzog, Gen.	Fitzpatrick, Sir J. P.
Jameson, Dr.	Greene, Col.
Malan, Mr.	Hull, Mr.
Morcom, Mr.	Hyslop, Mr.
Smartt, Dr.	Jagger, Mr.
Stanford, Col.	Lindsay, Mr.
Steyn, Mr.	Maasdorp, Mr.
	Merriman, Mr.
	Moor, Mr.
"NOES," 21.	Sauer, Mr.
	Smuts, Gen.
Beck, Dr.	Smythe, Mr.
Botha, Gen.	Van Heerden, Mr.
Browne, Mr.	Walton, Mr.

The amendment accordingly negatived.

The President then put the amendment: After "Union" to insert the words "not being members on active service of the Imperial Military or Naval Forces."

Upon which the Convention divided:

"AYES," 16.	"NOES," 14.
Beck, Dr.	Browne, Mr.
Botha, Gen.	Burger, Gen.
De la Rey, Gen.	Farrar, Sir G. H.
De Villiers, Sir J. H.	Fitzpatrick, Sir J. P.
De Wet, Gen.	Hull, Mr.
Fischer, Mr.	Hyslop, Mr.
Greene, Col.	Jameson, Dr.
Hertzog, Gen.	Lindsay, Mr.
Jagger, Mr.	Maasdorp, Mr.
Malan, Mr.	Morcom, Mr.
Merriman, Mr.	Smartt, Dr.
Moor, Mr.	Smuts, Gen.
Sauer, Mr.	Smythe, Mr.
Stanford, Col.	Walton, Mr.
Steyn, Mr.	
Van Heerden, Mr.	

The amendment accordingly agreed to.

Discussion ensued.

On the motion of Mr. Merriman,

The debate was adjourned until the next meeting of the Convention.

7. On the motion of Gen. Smuts, the Convention adjourned at half-past five o'clock p.m. until to-morrow at half-past three o'clock p.m.

DURBAN, *Friday*, 30th *October*, *1908*.

Half-past three o'clock p.m.

1. All the members were present except Mr. Steyn—absent through indisposition.

2. Minutes of previous meeting confirmed.

3. *The President* put in a telegram from the Mayor of Harrismith, inviting the Convention to that place for the remainder of the sitting.

4. *Mr. Fischer* moved: That, at its rising on Wednesday, the 4th November, the Convention adjourn until Tuesday, the 10th November.

Agreed to.

5. Adjourned debate on Resolution No. 4 of the Committee on Constitution of Assembly [pages 44-45] resumed.

The President stated that when this debate was adjourned yesterday, the question before the Convention was the Resolution No. 4, which had been amended by the insertion after "Union," where it occurs the second time, of the words "not being members on active service of the Imperial Military or Naval Forces."

Debate resumed.

Gen. Smuts moved, as a further amendment: To omit all the words from "Every Province" down to "such increase,"

and substitute "Every Province, whose total number of white male adults, divided by the number of members representing such Province in the House of Assembly, produces a quotient greater than the quota, shall be entitled to additional representation if the total number of its white male adults exceeds that of the last preceding census by a number equal to, or greater than, the quota, such additional representation shall be given by adding to the members allotted to such Province a number equal to whatever multiple its excess of white male adults over the last preceding census may be of the quota."

Mr. Jagger moved: To add at the end "but the members of the House of Assembly shall be readjusted amongst the Provinces every five years on the basis of the white male adults."

After discussion,

This amendment was put and negatived.

Dr. Beck moved, as an amendment to Gen. Smuts' amendment: To insert a full stop after the word "representation."

After discussion,

With leave of the Convention,

The last amendment was withdrawn.

Dr. Smartt moved, as an amendment to Gen. Smuts' amendment: To omit "last preceding census" and substitute "census of 1904."

With leave of the Convention,

The amendments by Dr. Smartt and Gen. Smuts were withdrawn.

Resolution No. 4, as amended, put and agreed to, as follows:—*

4. In 1911, and every five years thereafter, a census of the white population of the Union shall be taken for the purpose of the Constitution. Immediately after the completion of each such census a readjustment of members of the House of Assembly among the Provinces shall take place in the following manner:—The total number of white male adults of the Union, not being members on active service of the Imperial Military or Naval Forces, at the last census before such readjustment shall be divided by the number of members of the House of Assembly to give the quota. Every Province, whose total number of white male adults has increased since the last census, so that, after deducting therefrom the quota multiplied by the number of members representing it in the House of Assembly, it has a surplus above the number of white male adults at the last preceding census equal to at least the quota or any multiple thereof, shall be entitled to an additional member, or additional number of members equal to such multiple in respect of any such increase. No such additional member or members shall, however, be elected before the first general election following such readjustment. As soon as the number of Members of the House of Assembly reaches the total of 150, no further increase of representation shall be

* Subsequently further amended see page 54. G.R.H.

given to any Province, unless Parliament otherwise provides.

6. *Gen. Smuts* moved: Every House of Assembly shall continue for a period of five years from the date of the first meeting of the House, but may be sooner dissolved by the Governor-General.

Agreed to.

7. *Gen. Smuts* moved: The various electoral laws of the Colonies shall, until altered by the Parliament, continue to apply *mutatis mutandis* to electors for the House of Assembly in the corresponding Provinces, subject to the application of the principle of proportional representation. The qualifications of voters in the Provinces shall similarly be identical with those existing in the Colonies at the establishment of the Union, save in regard to the following matters:

(a) Naturalization in any one Colony shall entitle the person naturalized to be registered as a voter in that of any other Province;

(b) Residence in South Africa for three years previous to registration shall be necessary.

Mr. Merriman moved, as an amendment: Until otherwise provided by the Legislature of the Union all the laws which are in force in any Colony at the date of the Proclamation constituting such Union relating to the qualification or disqualification of every person to be elected, or to sit or vote as to the qualification or disqualification of voters and the oaths or declarations to be taken by voters, and by returning officers, and the powers and duties thereof, and the proceedings at elections and the period during which such elections may be continued, and relating to the trial and decision of controverted elections and the proceedings incident thereto and the vacating of seats of members and the issuing of new writs in case of any seat being vacated otherwise than by a dissolution, shall respectively be applied to the election of members to serve in the House of Assembly of the Union for those Provinces in which such laws were passed.

Discussion ensued.

On the motion of Mr. Merriman, the debate was adjourned until Tuesday.

7. *Mr. Van Heerden* moved: That the Convention at its rising to-day adjourn until Monday.

Agreed to.

8. On the motion of Mr. Van Heerden, the Convention adjourned at five minutes past five o'clock p.m. until Monday, the 2nd November, at half-past nine o'clock a.m.

DURBAN, *Monday*, 2nd *November, 1908.*

Half-past nine o'clock a.m.

1. All the members were present.

2. *Mr. Fischer* presented a petition from the African Political Organization of Coloured People resident in the Orange

River Colony, praying that the principle of equal rights to all civilised persons in South Africa may be embodied in the Constitution of the Union.

On the motion of Col. Stanford,

This petition was referred to the Committee on the Franchise.

3. *Gen. Smuts* moved: The qualifications of a member of the House of Assembly shall be as follows:—

He must be:

(1) Qualified to be registered for the election of members of the House of Assembly in one of the electoral divisions of the Union;

(2) Resident within the Union for not less than three years.

Gen. Hertzog moved, as an amendment: To add:

"(3) Of European descent."

Discussion ensued.

Sir George Farrar moved: That the further consideration of this motion stand over until after the Franchise Committee has reported.

Agreed to.

4. *Gen. Smuts* moved: Save as modified in the Constitution, all laws existing in the respective Provinces at the date of the establishment of the Union shall remain of full force and effect within the areas of the corresponding Provinces until repealed by Parliament or by the Provincial Legislatures in regard to matters on which legislative powers have been delegated to them.

Mr. Malan moved, as an amendment: To omit the word "Legislatures" and substitute "Councils."

Mr. Hyslop moved, as a further amendment: To insert the words "reserved or" before "delegated."

Mr. Walton moved: Before "repealed" to insert "amended or."

After discussion,

These amendments were put and agreed to.

Mr. Fischer moved: To add "But any law made by a Provincial Council shall have effect in and for the Province as long and as far only as it is not repugnant to any act of the Parliament of South Africa.

Agreed to.

Motion, as amended, put and agreed to, as follows:—

Save as modified in the Constitution, all laws existing in the respective Provinces at the date of the establishment of the Union shall remain of full force and effect within the areas of the corresponding Provinces until amended or repealed by Parliament, or by the Provincial Councils, in regard to matters on which legislative powers have been reserved or delegated to them. But any law made by a Provincial Council shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of South Africa."

5. *Gen. Smuts* moved: Proposed laws appropriating rev-

enue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment, or appropriation of fees for licences, or fees for services under the proposed law. The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government. The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

Mr. Jagger moved, as an amendment: To add:—A proposed law which appropriates money for the ordinary annual services of the Government shall deal only with such appropriation. Laws imposing taxation shall deal only with the imposition of taxation.

After discussion,

With leave of the Convention,

This amendment was withdrawn.

The President moved: To omit the words "imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual," and substitute "so far as they impose taxation or appropriate revenue or moneys for the."

Mr. Walton moved: To add "The Senate shall have the power to suggest amendments to such proposed laws, but if after consideration of such amendments by the House of Assembly they be not agreed to, then the Senate shall not have the power to insist upon such amendments."

Mr. Merriman moved: After "amend" to insert "reject."

After discussion,

The amendment proposed by Mr. Merriman was put, and the Convention divided:

"AYES," 12.

Beck, Dr.	Burger, Gen.
De la Rey, Gen.	De Villiers, Sir J. H.
De Wet, Gen.	Farrar, Sir G. H.
Fischer, Mr.	Fitzpatrick, Sir J. P.
Hertzog, Gen.	Greene, Col.
Jameson, Dr.	Hull, Mr.
Malan, Mr.	Hyslop, Mr.
Merriman, Mr.	Jagger, Mr.
Smartt, Dr.	Lindsay, Mr.
Steyn, Mr.	Maasdorp, Mr.
Van Heerden, Mr.	Moor, Mr.
Walton, Mr.	Morcom, Mr.
	Sauer, Mr.
"NOES," 18.	Smuts, Gen.
Botha, Gen.	Smythe, Mr.
Browne, Mr.	Stanford, Col.

This amendment accordingly negatived, and the amendment proposed by Mr. Walton dropped.

Business suspended at eleven o'clock, a.m.

Ten minutes past eleven o'clock a.m.

Business resumed.

Discussion on Gen. Smuts' motion on laws appropriating revenue or moneys or imposing taxation [pages 49-50] continued.

The amendment proposed by the President put and agreed to.

Mr. Jagger moved: To insert thereafter "so as to increase the burdens on the people, but they may amend such laws with a view to reducing such burdens," which was put and negatived.

Gen. Smuts moved: To omit "or for the demand or payment or appropriation of fees for licences or fees for services."

Agreed to.

Motion, as amended, put and agreed to, as follows:—

Proposed laws appropriating revenue or moneys or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties under the proposed law. The Senate may not amend proposed laws so far as they impose taxation or appropriate revenue or moneys for the services of the Government. The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

6. *Mr. Merriman* moved: All Bills for appropriating any part of the public revenue, or for imposing any new tax, or impost, shall originate in the House of Assembly.

Agreed to.

7. *Mr. Merriman* moved: The House of Assembly shall not originate or pass any vote, resolution, address or bill for the appropriation of any part of the public revenue, or of any tax, or impost, to any purpose not being first recommended by message from the Governor-General during the Session in which such Vote, Resolution, Address or Bill is proposed.

Dr. Smartt moved: To omit the word "address."

Col. Greene moved: A vote, resolution or proposed law for the appropriation of revenue, or moneys, shall not be passed unless the purpose of the appropriation has in the same Session been recommended by message of the Governor-General.

After discussion,

These amendments were put and negatived.

The original motion was then put and agreed to.

8. *Mr. Merriman* moved: Any proposed law which appropriates revenue or moneys for the ordinary annual service of the Government shall deal only with such appropriation.

After discussion,

The motion was put and agreed to.

9. *Mr. Merriman* moved: Laws imposing taxation shall deal only with the imposition of taxation.

After discussion,
With leave of the Convention,
The motion was withdrawn.

10. *Gen. Smuts* moved: If the House of Assembly passes any proposed law and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Assembly will not agree, and if the House of Assembly in the next Session again passes the proposed law, with or without any amendments which have been made, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Assembly will not agree, the Governor-General may, during that Session, convene a joint sitting of the members of the Senate and House of Assembly in the manner hereinafter provided, or may dissolve the House of Assembly, and may simultaneously dissolve both the Senate and House of Assembly. But such dissolution shall not take place within six months before the date of the expiry of the House of Assembly by the effluxion of time.

If after such dissolution the House of Assembly again passes the proposed law, with or without any amendments which have been made, or agreed to by the Senate, and if the Senate rejects, or fails to pass it, or passes it with amendments to which the House of Assembly will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Assembly, at which the Speaker of the House of Assembly shall preside.

The members present at any joint sitting, convened under either of the preceding sub-sections, may deliberate and shall vote together upon the proposed law, as last proposed by the House of Assembly, and upon amendments, if any, which have been made therein by the one House of the Parliament, and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and House of Assembly shall be taken to have been carried, and if the proposed law, with the amendments, if any, so carried, is affirmed by an absolute majority of the total number of the members of the Senate and House of Assembly, it shall be taken to have been duly passed by the Parliament.

Mr. Merriman moved, as an amendment: If the House of Assembly passes any proposed law and the Senate rejects, or fails to pass it, or passes it with amendments to which the House of Assembly will not agree, the Governor-General may convene a joint sitting of the members of the Senate and House of Assembly.

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Assembly and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by a majority of the total numbers of the Senate and the House of

Assembly present at such sitting shall be taken to be carried, and if the proposed law with the amendments, if any, so carried, is affirmed by an absolute majority of the total number of the members of the Senate and House of Assembly present at the sitting it shall be taken to have been duly passed by both Houses of Parliament and shall be presented to the Governor for the King's pleasure.

Mr. Jagger moved, as an amendment to the original motion: To omit all the words from "in the manner" down to "Senate and of the House of Assembly" before "at which"; in the last paragraph after "any" to insert "such", and to omit "convened under either of the preceding sub-sections."

After discussion,

With leave of the Convention,

The amendment proposed by Mr. Merriman was withdrawn.

The President then put the first part of Mr. Jagger's amendment, viz.: To omit all the words from "in the manner" down to "Senate and of the House of Assembly" before "at which."

Upon which the Convention divided:

"AYES," 16.	"NOES," 14.
Beck, Dr.	Botha, Gen.
Browne, Mr.	Burger, Gen.
De Villiers, Sir J. H.	De la Rey, Gen.
De Wet, Gen.	Farrar, Sir G. H.
Fischer, Mr.	Fitzpatrick, Sir J. P.
Hertzog, Gen.	Greene, Col.
Jagger, Mr.	Hull, Mr.
Jameson, Dr.	Hyslop, Mr.
Maasdorp, Mr.	Lindsay, Mr.
Malan, Mr.	Moor, Mr.
Merriman, Mr.	Morcom, Mr.
Sauer, Mr.	Smartt, Dr.
Stanford, Col.	Smuts, Gen.
Steyn, Mr.	Smythe, Mr.
Van Heerden, Mr.	
Walton, Mr.	

The amendment accordingly agreed to.

The remainder of Mr. Jagger's amendment, viz.: In the last paragraph after "any" to insert "such", and to omit "convened under either of the preceding sub-sections," put and agreed to.

Mr. Merriman moved: To omit "an absolute", in two places, and substitute "a": after "majority of the", in two places, to omit "total number of the" *: and after "Assembly", where it follows in two places, to insert "present at such sitting".

Discussion ensued.

Business suspended at half-past twelve o'clock p.m.

* The words "total number of the" were only omitted in one place in the resolution as finally adopted as well as in the corresponding clause of the South Africa Act as assented to. G.R.H.

A quarter to four o'clock p.m.

Business resumed.

11. Minutes of previous meeting confirmed.

12. *Sir Percy Fitzpatrick* moved, as an unopposed motion, and with the unanimous consent of the Convention: To amend the resolution adopted on Friday last [page 47] on the re-adjustment of Provincial representation in the Union House of Assembly by omitting the words "after deducting therefrom" and substituting "it exceeds"; and after "Assembly" by omitting "it" and substituting "and".

Agreed to.

13. Discussion on Gen. Smuts' motion on rejection by Senate of proposed laws [page 52] resumed.

The amendments proposed by Mr. Merriman [page 53] put and agreed to.

Motion, as amended, put and agreed to, viz.:—

If the House of Assembly passes any proposed law and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Assembly will not agree, and if the House of Assembly in the next Session again passes the proposed law, with or without any amendments which have been made, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Assembly will not agree, the Governor-General may during that Session convene a joint sitting of the members of the Senate and House of Assembly, at which the Speaker of the House of Assembly shall preside.

The members present at any such joint sitting, may deliberate and shall vote together upon the proposed law, as last proposed by the House of Assembly, and upon amendments, if any, which have been made therein by the one House of the Parliament and not agreed to by the other, and any such amendments which are affirmed by a majority of the total number of the members of the Senate and House of Assembly present at such sitting shall be taken to have been carried, and if the proposed law, with the amendments, if any, so carried, is affirmed by a majority of the members of the Senate and House of Assembly present at such sitting it shall be taken to have been duly passed by the Parliament.

14. *Mr. Malan* moved: It shall be lawful for the Governor-General to dissolve the Senate and the House of Assembly simultaneously or to dissolve the House of Assembly alone: provided that the dissolution of the Senate shall not affect any Senators nominated by the Governor-General-in-Council.

Mr. Walton moved, as an amendment: After "or to dissolve" to insert "the Senate alone or".

Mr. Merriman moved: To add "In the event of the Senate rejecting a measure for the annual appropriation of public funds, or for taxation, the Governor-General shall have the power of dissolving the Senate."

Mr. Jagger moved: To insert at the beginning "Notwith-

standing anything to the contrary in the 14th Resolution [page 37] contained."

After discussion,

The amendments proposed by Mr. Walton and Mr. Merriman were put and negatived.

With leave of the Convention,

The amendment proposed by Mr. Jagger was withdrawn.

The original motion was then put, and the Convention divided:

"AYES," 23.	
Beck, Dr.	Merriman, Mr.
Botha, Gen.	Sauer, Mr.
Burger, Gen.	Smartt, Dr.
De la Rey, Gen.	Smuts, Gen.
De Villiers, Sir J. H.	Stanford, Col.
De Wet, Gen.	Steyn, Mr.
Farrar, Sir G. H.	Van Heerden, Mr.
Fischer, Mr.	
Fitzpatrick, Sir J. P.	"NOES," 7.
Hertzog, Gen.	
Hull, Mr.	Browne, Mr.
Jagger, Mr.	Greene, Col.
Jameson, Dr.	Hyslop, Mr.
Lindsay, Mr.	Moor, Mr.
Maasdorp, Mr.	Morcom, Mr.
Malan, Mr.	Smythe, Mr.
	Walton, Mr.

The motion accordingly agreed to.

Mr. Hyslop moved: To add "Provided also that no dissolution of the Senate shall take place during the first six years after the establishment of the Union."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Mr. Hyslop then moved: To add "Provided further that should such dissolution of the Senate take place within the first six years after the formation of the Union the vacancies shall be filled up by the Provincial Council in the same manner as was originally provided for by the Parliament of the States forming the Union."

Dr. Beck moved: To add to the original motion: "In the event of the dissolution of the first Senate before the expiration of the period expressed by Resolution No. 14 [page 37], seats vacated shall be regarded as vacancies to be filled up in terms of such Resolution".

Gen. Hertzog moved: To add "In case of a dissolution of the Senate within the first six years after the establishment of the Union, the new Senate shall be elected by the respective Provincial Councils as near as may be in manner as provided in Resolution No. 14 [page 37] for the election of the first Senate, provided that in no case shall the period for

which such a new Senate is elected exceed the period of ten years mentioned in Resolution No. 14".

After discussion,

The amendment proposed by Dr. Beck was put, and the Convention divided:

"AYES," 10.	
Beck, Dr.	De la Rey, Gen.
Botha, Gen.	De Wet, Gen.
De Villiers, Sir J. H.	Fischer, Mr.
Farrar, Sir G. H.	Greene, Col.
Fitzpatrick, Sir J. P.	Hertzog, Gen.
Hull, Mr.	Hyslop, Mr.
Jagger, Mr.	Jamieson, Dr.
Lindsay, Mr.	Maasdorp, Mr.
Smuts, Gen.	Malan, Mr.
Stanford, Col.	Merriman, Mr.
	Moor, Mr.
	Morcom, Mr.
	Sauer, Mr.
"NOES," 20.	Smartt, Dr.
	Smythe, Mr.
	Steyn, Mr.
Browne, Mr.	Van Heerden, Mr.
Burger, Gen.	Walton, Mr.

The amendment accordingly negatived.

On the motion of Col. Greene,

The debate was adjourned until to-morrow.

15. *Mr. Fischer* brought up the First Report of the Franchise Committee appointed by resolution of the Convention, dated the 22nd October, 1908 [pages 26-27], recommending the following resolutions, viz.:—

1. The various Franchise Laws of the original Colonies constituting the Union shall, until altered by the Parliament, continue to apply *mutatis mutandis* to electors for the House of Assembly in the corresponding Provinces: provided that no Act of Parliament shall at any time:

   a) withhold the franchise from any persons by reason of their colour or race in any province wherein franchise laws at the time the Union Constitution takes effect admit of their inclusion;

   b) deprive any registered voters in any Province if and as long as duly qualified to be on the voters' lists by any law in force at the date of the establishment of the Union, of the right to remain on such lists:

   deprive any persons so qualified at any time but not registered as voters at the time of the establishment of the Union of the right to be so registered.

   Nothing herein stated shall prevent the Parliament of the Union by a general law from altering the qualifications of voters throughout the Union.

II. Only persons of European descent shall be eligible as Members of either House of Parliament.

III. Until Parliament otherwise provides, but subject to the Constitution, the laws in force at the establishment of the Union in each Colony entering the Union as an original Province relating to the election for the Legislative Assembly for such Colony, including the registration of voters, the oaths or declarations to be taken by voters, returning officers, their powers and duties, the proceedings at elections, the trial of controverted elections, and the proceedings incident thereto, the vacating of seats of Members, and the issuing and execution of new writs in case of a seat being vacated otherwise than by dissolution, shall *mutatis mutandis* apply to the elections in the province of Members of the House of Assembly.

IV. Naturalization of persons of European descent in any one Colony shall avail as naturalization throughout the Union.

Mr. Fischer moved: That the Report be now considered.

After discussion,

On the motion of Mr. Sauer,

The debate was adjourned until to-morrow.

16. *Gen. Smuts* moved: That the Convention at its rising adjourn until to-morrow at half-past three o'clock p.m., in order to enable the Committee on Constitution of the Assembly to deliberate.

Agreed to.

17. On the motion of Mr. Van Heerden, the Convention adjourned at half-past five o'clock p.m. until to-morrow at half-past three o'clock p.m.

DURBAN, *Tuesday*, 3RD *November*, 1908.

Half-past three o'clock p.m.

1. All the members were present, except Sir Lewis Michell.

2. Minutes of previous meeting confirmed.

3. *The President* put in:

(i) A letter, dated the 31st October, from the Mayor of Queenstown, setting forth the advantages of that place as a capital for the Union:

(ii) A telegram from the Synod of the Dutch Reformed Mission Church, Paarl, conveying their good wishes for the success of the work of the Convention.

4. *Mr. Moor* presented a letter, dated the 15th October, from Charles Daniel, of Imbizana, Natal, on the subject of the advancement of the natives.

5. *The President* brought up the Report of the Committee appointed by resolution of the Convention dated the 28th

October, 1908 [page 43] on Constitution of the Assembly, recommending the following resolutions, viz.:

1. Immediately on the passing of the Constitution Act a Commission shall be appointed by the Government of each Colony, consisting of a Judge of the Supreme Court of such Colony and two other members. Such Commission shall thereupon proceed to divide the respective Colonies into electoral areas for the first elections to be held under the said Act.

2. The whole number of voters in each Province, as nearly as can be ascertained, shall be divided by the number of Members of the House of Assembly to be elected therein for the purpose of ascertaining the Provincial quota.
In making any distribution of Provinces into electoral divisions, the Commissioners shall give due consideration to:

   (a) community or diversity of interests,
   (b) means of communication,
   (c) physical features,
   (d) existing electoral boundaries,
   (e) sparsity or density of population,

   and subject thereto the quota of voters shall be the basis for the distribution, and the Commissioners may adopt a margin of allowance—to be used whenever necessary—but in no case shall such quota be departed from to a greater extent than 15 per cent. more or 15 per cent. less.

3. The number of Members to be elected in each electoral division shall be three or more, unless the Commissioners decide in favour of a smaller number in special cases of sparsely populated areas.

4. In every fourth year after the establishment of the Union the Governor-General-in-Council shall appoint one or more Commissions, each of which to be presided over by a Judge of the Supreme or High Court of a Province, to carry out any redistribution which may have become necessary as between the different electoral divisions in each Province, and to provide for re-adjustment of any additional Members to which such Province may have become entitled under the provisions of the Constitution. In carrying out such redistribution and re-adjustment the Commissioners shall proceed upon the same principles as in the original distribution and re-adjustment.

5. The Members of the House of Assembly shall be elected according to the principles of proportional representation, with the single transferable vote.
The Governor-General-in-Council shall make regulations for the preparation and issue of ballot papers prescribing the method of voting, the transfer and counting of votes, and the duties of returning officers.

6. Adjourned debate on First Report of Franchise Committee [pages 56-57] resumed.

The President stated that when this debate was adjourned

yesterday, the question before the Convention was the consideration of the First Report of the Franchise Committee.

On Resolution No. I. [page 56].

Mr. Sauer moved: To omit all the words after "registered," at the end of sub-section (c), and to add at the end of that sub-section "unless and until Parliament shall by a general law alter the qualifications of voters throughout the Union."

Mr. Hull moved:

(i) The Parliament may by any general franchise law applying throughout the Union, but not otherwise, prescribe the qualifications which shall be necessary to entitle persons to vote for the election of Members of the House of Assembly.

(ii) Until such a general law shall be passed, the qualifications as existing in the several Colonies at the establishment of the Union shall be the qualifications necessary to entitle persons in the respective Provinces to vote for the election of Members of the House of Assembly.

(iii) No person who prior to the passing of any such general law shall be registered as a voter in any Province shall be removed from the Register by reason of his not possessing the qualifications prescribed by such law, or by reason of any disqualification based on race or colour.

Discussion ensued.

On the motion of Col. Greene,

The further consideration of this Resolution was ordered to stand over.

On Resolution No. II. [page 57].

Mr. Sauer moved: That the consideration of this Resolution stand over.

Agreed to.

Resolutions Nos. III. and IV. [page 57] put and agreed to.

On the motion of Col. Greene,

The debate was then adjourned until to-morrow.

7. Adjourned debate on motion by Gen. Smuts on Electoral Laws [page 48] resumed.

resumed.

The President stated that when this debate was adjourned on Friday, the question before the Convention was the following:—

The various electoral laws of the Colonies shall, until altered by the Parliament, continue to apply *mutatis mutandis* to electors for the House of Assembly in the corresponding Provinces, subject to the application of the principle of proportional representation. The qualifications of voters in the Provinces shall similarly be identical with those existing in the Colonies at the establishment of the Union, save in regard to the following matters:

(a) naturalization in any one Colony shall entitle the person naturalized to be registered as a voter in that of any other province:

(b) residence in South Africa for three years previous to registration shall be necessary.

Upon which an amendment had been moved by Mr. Merriman, viz.:—Until otherwise provided by the Legislature of the Union, all the laws which are in force in any Colony at the date of the Proclamation constituting such Union relating to the qualification or disqualification of every person to be elected or to sit or vote as a Member of the Assembly in the said Colony, and relating to the qualification or disqualification of voters and the oaths or declarations to be taken by voters, and by returning officers, and the powers and duties thereof, and the proceedings at elections and the period during which such elections may be continued, and relating to the trial and decision of controverted elections and the proceedings incident thereto, and the vacating of seats of Members and the issuing of new writs in case of any seat being vacated otherwise than by a dissolution, shall respectively be applied to the election of Members to serve in the House of Assembly of the Union for those Provinces in which such laws were passed.

Debate resumed.

With leave of the Convention,

The amendment proposed by Mr. Merriman, and all except sub-section (b) of the original motion, were withdrawn.

The President moved: To omit "in South Africa," and substitute "within the Union"; to omit "previous to registration," and to add at the end "for the purpose of being registered as a voter."

On the motion of Sir Percy Fitzpatrick,

The debate was adjourned until to-morrow.

8. Adjourned debate on motion by Gen. Smuts on qualifications of Members of the House of Assembly [page 49] resumed.

The President stated that when this debate was adjourned yesterday, the question before the Convention was the following:—

The qualifications of a Member of the House of Assembly shall be as follows:—

He must be:

(1) Qualified to be registered for the election of Members of the House of Assembly in one of the electoral divisions of the Union;

(2) Resident within the Union for not less than three years.

Upon which an amendment had been moved by Gen. Hertzog, viz.:

To add:

"(3) Of European descent."

Debate resumed.

On the motion of Mr. Malan,

The debate was adjourned until to-morrow.

9. Adjourned debate on motion by Mr. Malan on dissolution of the Senate and Assembly [page 54] resumed.

The President stated that when this debate was adjourned yesterday, the motion proposed by Mr. Malan had been agreed to, viz.:

It shall be lawful for the Governor-General to dissolve the Senate and the House of Assembly simultaneously or to dissolve the House of Assembly alone: provided that the dissolution of the Senate shall not affect any Senators nominated by the Governor-General-in-Council.

And it had then been moved to add provisoes thereto as follows:

By Mr. Hyslop:

Provided further that should such dissolution of the Senate take place within the first six years after the formation of the Union the vacancies shall be filled up by the Provincial Council in the same manner as was originally provided for by the Parliament of the States forming the Union.

By Gen. Hertzog:

In case of a dissolution of the Senate within the first six years after the establishment of the Union, the new Senate shall be elected by the respective Provincial Councils as near as may be in manner as provided in Resolution No. 14 for the election of the first Senate; provided that in no case shall the period for which such a new Senate is elected exceed the period of ten years mentioned in Resolution No. 14.

Debate resumed.

Dr. Smartt moved: To add "Provided further that should any dissolution of the Senate take place within a period of ten years after the establishment of the Union, the elected Senators shall be chosen by the Provinces in such manner as the Parliament may provide."

After discussion,

With leave of the Convention,

The amendments proposed by Mr. Hyslop and Gen. Hertzog were withdrawn.

The proviso proposed by Dr. Smartt put and agreed to.

Motion as amended put and agreed to, viz.:—

It shall be lawful for the Governor-General to dissolve the Senate and the House of Assembly simultaneously, or to dissolve the House of Assembly alone: provided that the dissolution of the Senate shall not affect any Senators nominated by the Governor-General-in-Council: provided further that should any dissolution of the Senate take place within a period of ten years after the establishment of the Union, the elected Senators shall be chosen by the Provinces in such manner as the Parliament may provide.

10. *Mr. Moor* moved: The Legislature of any Province may make laws in relation to matters coming within the classes of subjects hereinafter enumerated, that is to say:

(i) The amendment from time to time, notwithstanding anything in this Act, of the Constitution of the Province except as regards the office of Governor.

Discussion ensued.

On the motion of Col. Greene,

The debate was adjourned until Tuesday, the 10th instant.

11. *Gen Smuts* moved: That the Resolutions of the Franchise Committee [pages 56-57], and the amendments moved in the Convention on the consideration thereof [page 59] be referred back to the Committee, with an instruction to bring up a report to-morrow.

Agreed to.

12. On the motion of Mr. Malan, the Convention adjourned at a quarter to five o'clock p.m.

DURBAN, *Wednesday*, 4th *November, 1908.*

Half-past nine o'clock a.m.

1. All the members were present, except Sir Lewis Michell.

2. The Convention had under consideration the question of the time and place of the sittings of the Convention after to-day's adjournment, but postponed a decision thereon until after the suspension of business at eleven o'clock.

3. *The President* moved: That the Convention proceed to the consideration of the motions on the Administration of Justice, Nos. 1 to 12 as follows:—

1. There shall be a Supreme Court of South Africa, consisting of a Chief Justice, two ordinary Judges, the Chief Justices of the several Provinces forming part of the Union, and the Judge-President of the Eastern Districts Court.

2. The Chief Justice and the two ordinary Judges of the Supreme Court of South Africa shall be appointed by the Governor-General-in-Council and they shall hold office during good behaviour. They shall receive such remuneration as the Parliament may fix, but the remuneration shall not be diminished during their continuance in office. Judges and Advocates of the Supreme Courts of the Provinces shall be eligible to be so appointed.

3. The Supreme Court of South Africa shall have original jurisdiction in all matters:—

(1) Arising under any treaty.
(2) Affecting Consuls or other representatives of other countries.
(3) In which the Government of the Union, or a person suing or being sued on behalf of such Government, is a party.
(4) Arising under this Act.
(5) In which the validity of any Provincial Ordinance shall come into question.
(6) Of Admiralty and Maritime jurisdiction.
(7) Affecting the validity of elections of Members of the Union Parliament, provided that on the trial of any election petition the laws in force at the time of the Union in the Province within which such petition shall be tried, shall *mutatis mutandis* apply.
(8) When the parties have in writing agreed that the case shall be heard in the first instance before such Supreme Court of South Africa.

4. In lieu of any appeal which may by law be made from any Court of any Province at the date of the establishment of the Union to the King-in-Council the appeal shall, subject to the provisions in the next succeeding section mentioned, be made to the Supreme Court of South Africa without any further appeal to the King-in-Council, but nothing herein contained shall be construed to impair any right which the King-in-Council may be pleased to exercise to grant special leave to appeal from the Supreme Court of South Africa, in the exercise of either its original or its appellate juris-

diction, to the King-in-Council after due notice of an application for such special leave to appeal had been given to the party respondent.

The Parliament may make laws limiting the matters in which such leave may be asked, but proposed laws containing any such limitation shall be reserved by the Governor-General for His Majesty's pleasure.

5. In lieu of the amounts which by the laws of the different Provinces may have been fixed as the lowest amounts in respect of which appeals can be made to His Majesty-in-Council, the sum of £250 shall be the lowest limit for appeals to the Supreme Court of South Africa; provided that it shall be competent for the said Supreme Court of South Africa to grant special leave to appeal in any case in which, owing to its public importance, it is desirable that such leave should be granted.

6. It shall be lawful for the Judges of the Supreme Court of South Africa to make Rules for the conduct of its proceedings and the regulation of appeals from the Supreme Court of the Provinces, which shall be subject to the approval of the Governor-General-in-Council, and until such Rules shall have been promulgated the Rules in force in the Supreme Court of the Cape of Good Hope shall *mutatis mutandis* apply.

7. The Supreme Court of South Africa shall sit in..... but may from time to time for the convenience of suitors hold its sittings at other places within the Union.

8. In the exercise of the original jurisdiction of the Supreme Court three judges shall form a quorum. In the exercise of its appellate jurisdiction five judges shall form a quorum, but the Chief Justice of any Province, or the Judge-President of the Eastern Districts Court shall not take part in the hearing of any appeal against a judgment given in a case heard before him.

9. It shall be lawful for the Governor-General-in-Council to appoint a Registrar of the Supreme Court of South Africa, and such other officers of the said Court as shall, in the opinion of the Chief Justice thereof, be required for the proper despatch of the business of the said Court.

10. All Advocates and Attorneys of the Supreme Courts of the Provinces shall respectively be entitled to practise as such in the Supreme Court of South Africa.

11. The administration of justice throughout the Union shall be under the control of a Minisiter of Justice, in whom shall be vested all powers, functions and authorities which shall, at the time of the establishment of the Union, be vested in the Attorney Generals of the different Colonies, save and except the duty of prosecuting for crimes and offences, which shall continue to be performed by the Attorney-General of each Province, who, if not already a permanent officer, shall be entitled to remain in office until a permanent Attorney-General shall have been appointed for such Province by the Governor-General-in-Council.

12. All Judges of the Supreme Courts of the Provinces shall be officers of the Union, and they shall retain all such rights in regard to salaries and pensions as they may enjoy at the time of the establishment of the Union.

Discussion ensued.

Gen. Smuts moved: That these proposals be referred to a Committee consisting of the President and two Members from each Colony, nominated by the respective Prime Ministers, and a representative from Rhodesia, nominated by Sir Wm. Milton.

Mr. Malan moved: The adjournment of the debate *sine die*.

The motion by Gen. Smuts having been put and negatived,

The adjournment of the debate *sine die* was put and agreed to.

4. On the motion of the President,

The Convention suspended business at twenty minutes to eleven o'clock a.m., in order to enable the Franchise Committee to resume their deliberations.

Ten minutes past eleven o'clock a.m.

Business resumed.

5. Minutes of previous meeting confirmed.

6. *Mr. Fischer* in terms of the resolution of the Convention adopted yesterday [page 62] brought up the Second Report of the Franchise Committee making no alteration in Resolution No. II. of the Committee's First Report [page 57], but recommending the following in lieu of Resolution No. I. [page 56], viz.:—

(1) The Parliament may, by law, prescribe the qualifications which shall be necessary to entitle persons to vote for the election of Members of the House of Assembly, but no such law shall disqualify any persons in the Province of the Cape of Good Hope by reason of their race or colour only, unless such law be passed by a majority of two-thirds of the Members of each House of Parliament.

(2) Until such a law shall be passed, the qualifications as existing in the several Colonies at the establishment of the Union shall be the qualifications necessary to entitle persons in the respective Provinces to vote for the election of Members of the House of Assembly.

(3) No person who prior to the passing of any such law shall be registered as a voter in any Province shall be removed from the register by reason only of any disqualification based on race or colour.

7. Adjourned debate on First Report of the Franchise Committee [pages 56-57] resumed.

The President stated that when this debate was adjourned yesterday, Resolutions Nos. III. and IV. of the Committee's First Report had been agreed to [page 59], and that amendments having been moved by Mr. Hull and Mr. Sauer on Resolution No. I. [page 59] that Resolution, together with Resolution No. II. [page 57] had been referred back to the Committee for further consideration, and that the Committee's Second Report [printed above] recommending other Resolutions in lieu of No. I., but reporting no alteration in No. II., had been brought up this morning.

With leave of the Convention,

Resolution No. I. of the Committee's First Report, and the amendments thereon, were withdrawn.

Debate resumed.

Mr. Fischer moved Resolution No. (1) of the Committee's Second Report, viz.:—The Parliament may, by law, prescribe the qualifications which shall be necessary to entitle persons to vote for the election of Members of the House of Assembly, but no such law shall disqualify any persons in the Province of the Cape of Good Hope by reason of their race or colour only, unless such law be passed by a majority of two-thirds of the Members of each House of Parliament.

Mr. Malan moved, as an amendment: To omit the words "in the Province of the Cape of Good Hope by reason of their race or colour only," and substitute "by reason of their

colour or race in any Province wherein Franchise Laws at the time the Union Constitution takes effect admit of their inclusion."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Mr. Malan then moved: After "two-thirds of the" to insert "total number of the"; to omit "each House" and substitute "both Houses"; and to add at the end "sitting as one body."

Mr. Smythe moved: To omit all the words after "Assembly."

After discussion,

With leave of the Convention,

The amendment proposed by Mr. Malan was withdrawn.

The amendment proposed by Mr. Smythe put, and the Convention divided:

"AYES," 6.	Farrar, Sir G. H.
	Fischer, Mr.
De la Rey, Gen.	Fitzpatrick, Sir J. P.
Greene, Col.	Hertzog, Gen.
Hyslop, Mr.	Hull, Mr.
Moor, Mr.	Jagger, Mr.
Morcom, Mr.	Jameson, Dr.
Smythe, Mr.	Lindsay, Mr.
	Maasdorp, Mr.
	Malan, Mr.
"NOES," 21.	Merriman, Mr.
	Sauer, Mr.
Beck, Dr.	Smartt, Dr.
Botha, Gen.	Smuts, Gen.
Browne, Mr.	Stanford, Col.
Burger, Gen.	Steyn, Mr.
De Villiers, Sir J. H.	Van Heerden, Mr.
De Wet, Gen.	Walton, Mr.

The amendment accordingly negatived.

Gen. Botha moved: To omit all the words after "passed by" and substitute "both Houses of Parliament sitting together and approved of by two-thirds of the total number of Members of both Houses."

After discussion,

This amendment was put and agreed to.

Motion, as amended, put and agreed to, as follows:—

The Parliament may, by law, prescribe the qualifications which shall be necessary to entitle persons to vote for the election of Members of the House of Assembly, but no such law shall disqualify any persons in the Province of the Cape of Good Hope by reason of their race or colour only, unless such law be passed by both Houses of Parliament sitting together, and approved of by two-thirds of the total number of Members of both Houses.

8. *Mr. Fischer* moved Resolution No. (2) of the Committee's Second Report, viz.: Until such a law shall be passed the qualifications as existing in the several Colonies at the establishment of the Union shall be the qualifications necessary to entitle persons in the respective Provinces to vote for the election of Members of the House of Assembly.

Agreed to.

9. *Mr. Fischer* moved Resolution No. (3) of the Committee's Second Report, viz.: "No person who, prior to the passing of any such law, shall be registered as a voter in any Province shall be removed from the register by reason only of any disqualification based on race or colour.

Agreed to.

10. *Mr. Fischer* moved Resolution No. II of the Committee's First Report, viz.: Only persons of European descent shall be eligible as Members of either House of Parliament.

Agreed to.

11. *Gen. Botha* moved, as an unopposed motion: That the Resolution as to adjournment, adopted on the 30th October, viz.:

"That at its rising on Wednesday, the 4th November, the Convention adjourn until Tuesday, the 10th November,"

be rescinded, and that the Convention proceed with its work at Durban until not later than Wednesday, the 11th instant, and thereafter resume its sittings in Cape Town.

After discussion,

The motion was put and unanimously agreed to.

Business suspended at half-past twelve o'clock p.m.

Half-past three o'clock p.m.

Business resumed.

12. On the motion of the President,

The Convention proceeded to consider the Report of the Committee on constitution of the Assembly [pages 57-58].

Resolution No. 1 put, as follows:

Immediately on the passing of the Constitution Act, a Commission shall be appointed by the Government of each Colony, consisting of a Judge of the Supreme Court of such Colony and two other Members. Such Commission shall thereupon proceed to divide the respective Colonies into electoral areas for the first elections to be held under the said Act.

Sir George Farrar moved, as an amendment: For the purpose of carrying out the delimitation of electoral areas in each Province the Governor-General-in-Council shall appoint from time to time a Commission consisting of three Judges of the Supreme Court or any High Court of the Provinces of South Africa. The Commission may appoint officers in any Province to assist them in obtaining any necessary information and may also appoint persons to sit with the Commission

or with individual members of it as assessors for the purpose of enquiring into questions arising in any Province. But all delimitations of electoral divisions shall be made by the Commission and signed by them or any two of them.

Mr. Jagger moved, as an amendment to the above: To add "Provided that in the case of the first delimitation Commission the members shall be appointed jointly by the Governors in-Council of the Colonies of the Union."

Mr. Malan moved, as a further amendment to Sir George Farrar's amendment: To omit "General," and after "Council" to insert "in each Colony"; and to omit "from time to time."

Sir Percy Fitzpatrick moved, as a further amendment to Sir George Farrar's amendment: To omit all the words down to "South Africa," and substitute "Between the time of the passing of the Constitution Act and the taking effect of the Union a joint Commission consisting of four Judges of the Supreme or High Courts of the constituent Colonies, to be agreed upon by the Governments of the Colonies, shall be appointed by the Governor-in-Council of each Colony for the purpose of the first delimitation thereof," and at the end to omit "two" and substitute "three."

After discussion,

The last amendment was put and agreed to.

The amendment proposed by Sir George Farrar as amended was then put as the main question, and agreed to, as follows:

Between the time of the passing of the Constitution Act and the taking effect of the Union a joint Commission, consisting of four Judges of the Supreme or High Courts of the constituent Colonies, to be agreed upon by the Governments of the Colonies, shall be appointed by the Governor-in-Council of each Colony for the purpose of the first delimitation thereof. The Commission may appoint officers in any Province to assist them in obtaining any necessary information, and may also appoint persons to sit with the Commission or with individual members of it as assessors for the purpose of enquiring into questions arising in any Province. But all delimitations of electoral divisions shall be made by the Commission and signed by them, or any three of them.

The original resolution of the Committee and the amendments proposed by Mr. Jagger and Mr. Malan accordingly dropped.

Resolution No. 2 [page 58] put and agreed to.

Resolution No. 3 put, as follows: The number of Members to be elected in each electoral division shall be three or more, unless the Commissioners decide in favour of a smaller number in special cases of sparsely populated areas.

Mr. Browne moved: To add, "or for exceptional circumstances."

After discussion,

This amendment was put and negatived.

Mr. Jagger moved: To omit "or more."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

The resolution was then put and agreed to.

Resolution No. 4 put, as follows:

In every fourth year after the establishment of the Union the Governor-General-in-Council shall appoint one or more Commissions, each of which to be presided over by a Judge of the Supreme or High Court of a Province, to carry out any re-distribution which may have become necessary as between the different electoral divisions in each Province and to provide for re-adjustment of any additional Members to which such Province may have become entitled under the provisions of the Constitution. In carrying out such redistribution and re-adjustment the Commissioners shall proceed upon the same principles as in the original distribution and re-adjustment.

Sir George Farrar moved: To omit from "one or more" to "of a Province" and substitute "a Commission consisting of three Judges of any of the Superior Courts of the Union"; after "Commissioners shall" to insert "have the same powers and"; to omit "distribution" and substitute "delimitation"; and to add at the end "but the signature of two only shall be sufficient."

Mr. Malan moved: To omit "In every fourth year after the establishment of the Union," and substitute "As soon as may be after every quinquennial census."

After discussion,

These amendments were put and agreed to.

Resolution, as amended, put and agreed to, as follows:

As soon as may be after every quinquennial census the Governor-General-in-Council shall appoint a Commission consisting of three Judges of any of the superior Courts of the Union, to carry out any re-distribution which may have become necessary as between the different electoral divisions in each Province, and to provide for re-adjustment of any additional Members to which such Province may have become entitled under the provisions of the Constitution. In carrying out such redistribution and re-adjustment the Commissioners shall have the same powers and proceed upon the same principles as in the original delimitation and re-adjustment, but the signature of two only shall be sufficient.

Resolution No. 5 [page 58] put and agreed to.

13. *Mr. Malan* moved: That the adjourned debate on the motion for consideration of proposals for administration of justice be set down for to-morrow.

Agreed to.

14. On the motion of Mr. Sauer, the Convention adjourned at twenty minutes to six o'clock p.m.

DURBAN, *Thursday*, 5TH *November, 1908.*

Half-past nine o'clock a.m.

1. All the members were present, except Sir Lewis Michell.

2. Adjourned debate on motion by Gen. Smuts on Electoral Laws [page 48] resumed.

The President stated that when this debate was adjourned on Tuesday, the amendment proposed by Mr. Merriman and all of the original motion except sub-section (b) had been withdrawn [page 60], and the question now before the Convention was therefore:

Residence in South Africa for three years previous to registration shall be necessary;

Upon which an amendment had been moved by the President: To omit "in South Africa" and substitute "within the Union"; to omit "previous to registration"; and to add at the end, "for the purpose of being registered as a voter."

Debate resumed.

Sir Percy Fitzpatrick moved, as a further amendment: To omit "three years" and substitute "one year."

After discussion,

With leave of the Convention,

The original motion and the amendments were withdrawn.

3. Adjourned debate on motion by Gen. Smuts on Qualifications of Members of the House of Assembly [page 49], resumed.

The President stated that when this debate was adjourned on Tuesday, the question before the Convention was the following:

The qualifications of a Member of the House of Assembly shall be as follows:—

He must be:

(1) Qualified to be registered for the election of Members of the House of Assembly in one of the electoral divisions of the Union;

(2) Resident within the Union for not less than three years;

Upon which an amendment had been moved by Gen. Hertzog, viz.:

To add:

"(3) Of European descent."

Debate resumed.

With leave of the Convention,

The amendment proposed by Gen. Hertzog was amended by the insertion of "British subject" at the beginning.

Mr. Lindsay moved: In sub-section (2) to omit "three" and substitute "five."

Agreed to.

Gen. Hertzog moved: After "within" to insert "any Province of," in sub-section (2).

Agreed to:

Motion, as amended, put and agreed to, as follows:

The qualifications of a Member of the House of Assembly shall be as follows:

He must be:

(1) Qualified to be registered for the election of Members of the House of Assembly in one of the electoral divisions of the Union:

(2) Resident within any Province of the Union for not less than five years;

(3) British subject of European descent.

4. Adjourned debate on motion for consideration of proposals by President for the Administration of Justice resumed.

The President stated that when this debate was adjourned yesterday, the question before the Convention was that the Convention proceed to the consideration of the Motions Nos. 1 to 12 [pages 62-63], and further stated that an amendment by Gen. Smuts [page 63] to refer these proposals to a Committee had been negatived.

Debate resumed.

After discussion,

The motion was put and agreed to.

Motion No. 1 [page 62] put, as follows:—

There shall be a Supreme Court of South Africa consisting of a Chief Justice, two ordinary Judges, the Chief Justices of the several Provinces forming part of the Union, and the Judge-President of the Eastern Districts Court.

Discussion ensued.

Business suspended at eleven o'clock a.m.

Ten minutes past eleven o'clock a.m.

Business resumed.

5. Minutes of previous meeting, after being amended in one point, were confirmed.

6. Debate on Motion No. 1 [printed above] by the President on Administration of Justice continued.

Gen. Smuts moved: To insert "and" after "ordinary Judges," and to omit all the words after "Union."

Sir George Farrar moved: That the proposals by the President relating to the administration of justice be referred to a Committee consisting of the President and two Members to be nominated by each of the Prime Ministers and one by the Administrator of Rhodesia.

After discussion,

The motion was put and agreed to.

The following Members were then nominated, viz.:—*Cape of Good Hope*: Mr. Merriman and Mr. Sauer; *Natal*: Col. Greene and Mr. Morcom; *Transvaal*: Gen. Smuts and Mr. Lindsay; *Orange River Colony*: Mr. Fischer and Gen. Herzog; *Rhodesia*: Mr. Coghlan.

Business suspended at half-past twelve o'clock p.m.

Half-past three o'clock p.m.

Business resumed.

7. *Col. Greene* moved: That the Convention at its rising to-day adjourn until Monday, the 23rd instant, at 10 o'clock a.m.

Agreed to.

8. *The President* stated that for the purposes of the meetings of the Convention at Cape Town he had arranged with the Speaker of the House of Assembly, so that both the Council and Assembly buildings would be available for the sittings, and that the Convention would meet in the Council Chamber on the day and at the hour already determined upon.

9. *Mr. Merriman* moved: This Convention desires to express its most cordial thanks to the Government of Natal for the very complete and adequate arrangements made by them for the due conduct of the business of the Convention and the individual comfort of its members and staff during the period of the Durban Session.

Agreed to.

Mr. Moor, in thanking the Convention for the resolution which had just been agreed to, intimated the great pleasure which it had given his Government to welcome the Delegates to Natal, and expressed the hope that when the labours of the Convention had been successfully concluded, Natal might again have an opportunity of entertaining them.

Gen. Botha moved: This Convention, in concluding its sitting in Durban, has pleasure in placing on record a sense of its great obligations to His Worship the Mayor and the Town Council of that town for the courtesy shown to the Convention by the Municipality in many ways, and particularly by placing the Council Chamber and a large portion of the Town Hall at the disposal of the Convention, to the serious inconvenience of the Town Council.

Agreed to.

11. *Gen. Botha* moved: That the President be requested to cable to His Majesty the King the respectful congratulations of the Convention upon the anniversary of His Majesty's birthday on Monday.

Agreed to.

12. *Col. Greene* moved: That during the interval in the sittings of the Convention, all the papers, with the exception of the paper containing the Resolutions already agreed to, be in the custody of the Chief Secretary.

Agreed to.

13. On the motion of Mr. Merriman, the Convention adjourned at ten minutes to four o'clock p.m. until Monday, the 23rd instant, at 10 o'clock a.m., in the Houses of Parliament, Cape Town.

CAPE TOWN.

Monday, 23rd *November*, *1908*.

Ten o'clock a.m.

1. The Delegates assembled in the Legislative Council Chamber, Houses of Parliament, Cape Town, in accordance with the adjournment on the 5th instant from Durban.

2. All the members were present, except Sir William Milton, Gen. De la Rey and Mr. Coghlan.

3. *Mr. Merriman*, on behalf of the Government of the Cape of Good Hope, and of the inhabitants of the Cape Peninsula generally, extended a welcome to the Delegates upon their meeting in the City of Cape Town, and expressed the hope that their stay in the oldest site of civilization in South Africa would be both pleasant and profitable.

4. *Mr. Walton* moved: That until otherwise decided the sittings of the Convention be held daily from 9.30 a.m. to 1.30 p.m.

Mr. Jagger moved, as an amendment: That the sittings be held from 10 a.m. to 1 p.m., and from 2.30 p.m. to 4.30 p.m.

After discussion,

With leave of the Convention,

The amendment proposed by Mr. Jagger was withdrawn.

Mr. Fischer moved: That until otherwise decided the sittings of the Convention be held daily from 10 a.m. to 1 p.m. and from 2 p.m. to 4 p.m.

Upon which the Convention divided:

"AYES," 14.	"NOES," 15.
Browne, Mr.	Beck, Dr.
De Villiers, Sir J. H.	Botha, Gen.
De Wet, Gen.	Burger, Gen.
Fischer, Mr.	Farrar, Sir G. H.
Hertzog, Gen.	Fitzpatrick, Sir J. P.
Jagger, Mr.	Greene, Col.
Jameson, Dr.	Hull, Mr.
Malan, Mr.	Hyslop, Mr.
Merriman, Mr.	Lindsay, Mr.
Morcom, Mr.	Maasdorp, Mr.
Sauer, Mr.	Moor, Mr.
Smartt, Dr.	Smuts, Gen.
Steyn, Mr.	Smythe, Mr.
Van Heerden, Mr.	Stanford, Col.
	Walton, Mr.

The amendment accordingly negatived.

The motion proposed by Mr. Walton was then put and agreed to.

5. *Dr. Beck* moved: That the Convention suspend business

daily at eleven o'clock a.m., and resumé at a quarter-past eleven o'clock.

Agreed to.

6. *The President* stated that, in accordance with the resolution adopted on the 5th instant [page 71], he had requested His Excellency the High Commissioner to transmit by telegram to His Majesty the King the respectful congratulations of the Convention on the occasion of His Majesty's birthday, and read a letter which he had received from Lord Selborne, dated the 9th instant, intimating that this has been done.

The President then read a communication from Lord Selborne, dated the 10th instant, in which His Excellency stated that he had received a telegram from His Majesty the King, commanding him to convey his sincere thanks to the President and the Members of the Convention for their congratulations.

7. *The President* read and put in:

(i) Congratulatory telegram, dated the 23rd instant, from the Hon. President of the Naturalization Reform Association, Cape Town;

(ii) Letter from the Wynberg Coloured Men's Political Organization, Wynberg, dated November, 1908, on the subject of the grant of equal rights for the Coloured Races;

(iii) Petition from 1,991 Natives resident in the Transvaal, praying for the consideration of their claims to be granted representation in the Parliament of a United South Africa.

8. *Mr. Merriman* moved: That a Committee, consisting of the President and the Prime Ministers of the several Colonies, be appointed to arrange the daily order list and notice paper with a view to the consideration of questions in sequence of subject, irrespective of precedence.

Agreed to.

9. *Mr. Jagger* moved:

Any person who:

(i) is a member of any Provincial Council;

(ii) is an undischarged bankrupt or insolvent; or

(iii) holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Union, or

(iv) has any direct or indirect pecuniary interest in any agreement with the Public Service of the Union, otherwise than as a member and in common with other members of an incorporated company consisting of more than twenty-five persons and provided he is not a director of such company;

(v) is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced for any offence punishable under the laws of the Union or of a Province by imprisonment for one year or longer;

shall be incapable of being chosen or of sitting as a Senator or a Member of the House of Assembly.

But sub-section (3) does not apply to the office of any Min-

ister of State for the Union, or to the receipt of pay, half-pay, or a pension by any person as an officer or member of the the King's Navy or Army, or to the receipt of any pay as an officer or member of the Military or Naval Forces of the Union.

Mr. Browne moved, as an amendment: To omit the words "or any pension payable during the pleasure of the Crown out of any of the revenues of the Union," and to substitute the words "other than that of a Minister as defined in Resolution 7 [page 16], or that of a Member of any temporary Commission appointed by the Governor-General-in-Council. The receipt of a pension from the Crown or by an officer of the Naval or Military Forces, if retired on half-pay, shall not be deemed to be holding an office of profit under the Crown"; to add a new sub-section (6): "Shall become of unsound mind"; and to omit the last paragraph from "But" to "Union."

Mr. Hull moved, as a further amendment:

1. No person shall be capable of being chosen or of sitting as a Senator or a Member of the House of Assembly who:

i. is a Member of any Provincial Council;

ii. is under any acknowledgment of allegiance, obedience, or adherence to a Foreign Power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a Foreign Power; or

iii. has been at any time convicted of any offence and sentenced to imprisonment for not less than six months without the option of a fine, which imprisonment shall not have expired at least three years before the date of his election; or

iv. is an unrehabilitated insolvent, or whose estate is in liquidation under assignment in trust for his creditors; or

v. has been declared a person of unsound mind by a competent court; or

vi. holds any office of profit under the Crown within the Union.

But this sub-section does not apply to the office of any of the Ministers of State for the Union, or to any person in receipt of a pension from the Crown, or to an officer or member of His Majesty's Naval or Military Forces on retired or half-pay, or to any person who is temporarily or not wholly in the employment of the Union.

ii. If a Senator or Member of the House of Assembly:

becomes subject to any of the disabilities mentioned in the last preceding section; or

ceases to hold any qualifications recognized by law; or

shall fail for a whole ordinary annual Session to attend the Senate or the House of Assembly:

his seat shall thereupon become vacant.

After discussion,

With leave of the Convention,

The original motion, and the amendment proposed by Mr. Browne, were withdrawn in favour of the amendment by Mr.

Hull, and it was resolved to take the sections and sub-sections *seriatim*.

Sub-section (i) of Section I. [page 74] put and agreed to.

Sub-section (ii) of Section I. [page 74] put, and, after discussion, with leave of the Convention, withdrawn.

Sub-section (iii) of Section I. [page 74] put.

Mr. Fischer moved, as an amendment: "Has been at any time convicted of treason, murder, or any infamous crime and sentenced to imprisonment without the option of a fine, unless he shall have received a free pardon, or unless such imprisonment shall have expired at least five years before the date of his election."

Dr. Beck moved, as a further amendment: "has been convicted of any infamous crime, or within five years preceding election, of treason."

Col. Greene moved: That the question now under consideration be referred to a Committee consisting of four members, one to be nominated by each Prime Minister.

After discussion,

With leave of the Convention,

The amendment proposed by Col. Greene was withdrawn.

The amendment proposed by Dr. Beck was then put and negatived.

The amendment proposed by Mr. Fischer put, and the Convention divided:

"AYES," 21.	
Botha, Gen.	Sauer, Mr.
Browne, Mr.	Smuts, Gen.
De Villiers, Sir J. H.	Stanford, Col.
De Wet, Gen.	Steyn, Mr.
Farrar, Sir G. H.	Van Heerden, Mr.
Fischer, Mr.	
Fitzpatrick, Sir J. P.	"NOES," 8.
Hertzog, Gen.	Beck, Dr.
Hull, Mr.	Burger, Gen.
Jagger, Mr.	Greene, Col.
Jameson, Dr.	Hyslop, Mr.
Lindsay, Mr.	Moor, Mr.
Maasdorp, Mr.	Smartt, Dr.
Malan, Mr.	Smythe, Mr.
Merriman, Mr.	Walton, Mr.
Morcom, Mr.	

The amendment accordingly agreed to.

Sub-section, as amended, put and agreed to.

Sub-section (iv) of Section I. [page 74] put.

Mr. Walton moved: To omit all the words after "insolvent."

After discussion,

This amendment was put, and the Convention divided:

"AYES," 15.	"NOES," 14.
Beck, Dr.	Botha, Gen.
Browne, Mr.	Burger, Gen.
De Wet, Gen.	De Villiers, Sir J. H.
Fischer, Mr.	Farrar, Sir G. H.
Greene, Col.	Fitzpatrick, Sir J. P.
Hertzog, Gen.	Hull, Mr.
Jameson, Dr.	Hyslop, Mr.
Lindsay, Mr.	Jagger, Mr.
Maasdorp, Mr.	Moor, Mr.
Malan, Mr.	Morcom, Mr.
Merriman, Mr.	Smuts, Gen.
Sauer, Mr.	Smythe, Mr.
Smartt, Dr.	Stanford, Col.
Van Heerden, Mr.	Steyn, Mr.
Walton, Mr.	

The amendment accordingly agreed to.

Sub-section, as amended, put and agreed to.

Sub-section (v) of Section I. [page 74] put and agreed to.

Sub-section (vi) of Section I. [page 74] put.

Col. Greene moved: To insert after "Union" the words "other than a political office," and to omit all the words after "half-pay."

Gen. Smuts moved: To omit all the words from "temporary" to the end, and to substitute "appointed to serve on any Government or Parliamentary Commission."

Mr. Merriman moved: That the following be a new proviso:—"The disqualifications enumerated in this sub-section shall not include the holding of the office of any of the Ministers of the Crown, the Parliamentary Officers of the House, or any persons who may from time to time be specially excepted by Act of Parliament."

After discussion,

Mr. Van Heerden moved: The adjournment of the debate, which was put and negatived.

The amendment proposed by Mr. Merriman put and negatived.

Col. Greene then moved: That this sub-section, and the amendments thereon, together with section II. [pages 74-75] proposed by Mr. Hull relating to the creation of vacancies, be referred to a Committee of four members, one to be nominated by each Prime Minister.

Agreed to.

The members were then nominated as follows:—*Cape of Good Hope*, Mr. Sauer; *Natal*, Mr. Morcom; *Transvaal*, Mr. Hull and *Orange River Colony*, Gen. Hertzog; Mr. Hull to be convener.

Mr. Hull gave notice of further proposals,* and moved that they be referred to the Committee.

Agreed to.

* No record of these proposals is available, but the recommendations of the Committee thereon will be found on page 82. G.R.H.

Mr. Jagger moved: That sub-section (4) of the motion withdrawn by him [page 73] be also referred to the Committee.

Agreed to.

Mr. Hull's proposals, so far as agreed to, were then read, viz.:—

1. No person shall be capable of being chosen or of sitting as a Senator or a Member of the House of Assembly who

(i) is a member of any Provincial Council:

(ii) has been at any time convicted of treason, murder, or any infamous crime and sentenced to imprisonment without the option of a fine, unless he shall have received a free pardon, or unless such imprisonment shall have expired at least five years before the date of his election:

(iii) is an unrehabilitated insolvent:

(iv) has been declared a person of unsound mind by a competent Court.

Mr. Jagger moved: There shall be a Session of Parliament once at least in every year, so that a period of twelve months shall not intervene between the last sitting of Parliament in one Session and the next sitting thereof in the next Session.

Agreed to.

10. *Mr. Walton* moved: That the Order List and Notice Paper be circulated amongst delegates as soon as possible after the conclusion of each day's proceedings.

Agreed to.

11. *The President* read and put in a telegram of congratulation from the Chairman of the Afrikander Bond at Molteno.

12. On the motion of Mr. Merriman, the Convention adjourned at ten minutes past one o'clock p.m.

CAPE TOWN, *Tuesday*, 24TH *November*, *1908*.

Half-past nine o'clock a.m.

1. All the members were present, except Sir William Milton, Gen. de la Rey, and Mr. Coghlan.

2. *Mr. Moor* moved, as an unopposed motion: That the order of yesterday regulating the sittings of the Convention be rescinded, and that the sittings be held from 10 a.m. to 1 p.m. and from 2 to 4 p.m.

After discussion,

The motion was put and agreed to.

3. Minutes of the meeting of the 5th instant confirmed.

4. Adjourned debate on motion by Mr. Moor on Powers of Provincial Legislatures [page 61] resumed.

The President stated that when this debate was adjourned on the 3rd instant, the question before the Convention was:

The Legislature of any Province may make laws in relation to matters coming within the classes of subjects hereinafter enumerated, that is to say:—

(i) The amendment from time to time, notwithstanding anything in this Act, of the Constitution of the Province except as regards the office of Governor.

Mr. Merriman moved, as an amendment:

It shall be lawful for the Administrator of each Province, with the advice and consent of the Provincial Council thereof, to exercise such powers of legislation or administration as shall be delegated or entrusted to him by the Parliament, and unless and until Parliament otherwise provides, such Provincial Council may make laws or ordinances in relation to matters coming within the following classes, that is to say:—

and also to omit sub-section (i) of the original motion.

Gen. Hertzog moved, as an amendment to Mr. Merriman's amendment: Before "the Parliament" to insert "this Act or by."

The President moved, as a further amendment to Mr. Merriman's amendment: To insert before "shall be" the words "are specifically reserved by this Act or"; to omit "or entrusted to him"; to omit "Provincial Council" and substitute "Administrator, with the advice and consent aforesaid"; and to omit "laws or."

After discussion,

With leave of the Convention,

The amendment proposed by Gen. Hertzog was withdrawn.

After discussion,

The original preamble was put and negatived, and the amendment proposed by Mr. Merriman thus became the main question.

Business suspended at five minutes past eleven o'clock a.m.

Twenty minutes past eleven o'clock a.m.

Business resumed.

5. Minutes of previous meeting confirmed.

6. Debate on Mr. Merriman's motion on Powers of Provincial Legislatures [printed above] continued.

Mr. Hyslop moved: To omit "unless and until Parliament otherwise provides."

Col. Stanford moved: After "matters" to insert "hereby reserved to it and."

Gen. Smuts moved: To omit "otherwise provides" and substitute "exercises such powers of delegation."

With leave of the Convention,

The amendment proposed by Mr. Hyslop was withdrawn.

Mr. Hull moved: Subject to the provisions of this Act the Administrator, with the advice and consent of the Provincial Council, may make ordinances in relation to matters coming within the following classes of subjects, that is to say:

After discussion,

The amendment proposed by Mr. Hull was put and agreed to, and the motion proposed by Mr. Merriman, and the amendments thereon, dropped.

The President then put sub-section (i), as proposed by Mr. Moor [page 61], which, after discussion, was negatived.

Mr. Moor moved, as a sub-section to follow the preamble just agreed to:

(i) Direct taxation within the Province in order to the raising of a revenue for Provincial purposes.

Mr. Merriman moved: Direct taxation within the Province in order to the raising of the revenue for Provincial purposes.

Gen. Hertzog moved, as an amendment to the original motion: After "raising" to insert "for Provincial purposes"; to omit "a" before "revenue"; to omit "for Provincial purposes"; and to add at the end "not otherwise provided by this Act or by Parliament."

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

Gen. Hertzog's amendment put and negatived.

The original motion put and agreed to, and the amendment proposed by Mr. Merriman accordingly dropped.

Mr. Moor moved:

(ii) The borrowing of money on the sole credit of the Province.

Mr. Merriman moved: To add "with the consent of the Governor-General-in-Council, subject to regulations to be framed by the Parliament."

Mr. Walton moved: To omit "on the sole credit of the Province"; and to add at the end "with the consent and through the medium of the Governor-General-in-Council."

Sir George Farrar moved: To add "with the consent of the Governor-General-in-Council and in accordance with regulations to be framed by Parliament."

Mr. Jagger moved: To add "provided always that in respect of each loan there shall be required a sinking fund making provision for the redemption of the loan in not less than twenty-five years."

After discussion,

The amendment proposed by Mr. Walton put, and the Convention divided:

"AYES," 5.

Beck, Dr.
De Wet, Gen.
Fischer, Mr.
Maasdorp, Mr.
Walton, Mr.

"NOES," 24.

Botha, Gen.
Browne, Mr.
Burger, Gen.
De Villiers, Sir J. H.
Farrar, Sir G. H.
Fitzpatrick, Sir J. P.
Greene, Col.
Hertzog, Gen.
Hull, Mr.
Hyslop, Mr.
Jagger, Mr.
Jameson, Dr.
Lindsay, Mr.
Malan, Mr.
Merriman, Mr.
Moor, Mr.
Morcom, Mr.
Sauer, Mr.
Smartt, Dr.
Smuts, Gen.
Smythe, Mr.
Stanford, Col.
Steyn, Mr.
Van Heerden, Mr.

The amendment accordingly negatived.

With leave of the Convention,

The amendment proposed by Mr. Merriman was withdrawn.

The amendment proposed by Sir George Farrar put and agreed to.

The amendment proposed by Mr. Jagger put and negatived.

Motion, as amended, put and agreed to, viz.:—

(ii) The borrowing of money on the sole credit of the Province with the consent of the Governor-General-in-Council and in accordance with regulations to be framed by Parliament.

Mr. Morcom moved:

(iii) The establishment and tenure of Provincial offices and the appointment and payment of Provincial officers.

Mr. Merriman moved, as an amendment: To add "subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of Provincial public officers."

Agreed to.

Motion, as amended, put and agreed to, viz.:—

*(iii) the establishment and tenure of Provincial offices and the appointment and payment of Provincial officers, subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of Provincial public officers.

Mr. Morcom moved:

(iv) The management and sale of the public lands belonging to the Province, and of the timber and wood thereon, and the right to expropriate land for public purposes.

After discussion,

The motion was put, and the Convention divided:

"AYES," 5.	Fitzpatrick, Sir J. P.
Greene, Col.	Hertzog, Gen.
Hyslop, Mr.	Hull, Mr.
Moor, Mr.	Jagger, Mr.
Morcom, Mr.	Jameson, Dr.
Smythe, Mr.	Lindsay, Mr.
	Maasdorp, Mr.
"NOES," 23.	Malan, Mr.
	Merriman, Mr.
Beck, Dr.	Sauer, Mr.
Botha, Gen.	Smartt, Dr.
Browne, Mr.	Smuts, Gen.
Burger, Gen.	Stanford, Col.
De Villiers, Sir J. H.	Steyn, Mr.
Farrar, Sir G. H.	Van Heerden, Mr.
Fischer, Mr.	Walton, Mr.

The motion accordingly negatived.

Mr. Morcom moved:

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* This sub-section was subsequently omitted see page 110. G.R.H.

(v) The establishment, maintenance, and management of gaols, and hospitals in and for the use of the Province.

Mr. Merriman moved, as an amendment:

(v) The establishment, maintenance, and management of hospitals, asylums and charitable institutions.

Mr. Jagger moved, as an amendment to the last amendment: To omit "asylums."

After discussion,

The original motion put and negatived, and Mr. Merriman's amendment thus became the main question.

The amendment proposed by Mr. Jagger put and agreed to.

Motion, as amended, put and agreed to, viz.:

(v) The establishment, maintenance and management of hospitals and charitable institutions.

Mr. Morcom moved:

(vi) Municipal institutions in the Provinces until the Parliament of the Union otherwise decides.

Dr. Smartt moved, as an amendment: To omit all the words after "institutions" and to substitute "divisional councils and other local institutions of a similar nature."

After discussion,

This amendment was put and agreed to.

Motion, as amended, put and agreed to, viz.:

(vi) Municipal institutions, divisional councils and other local institutions of a similar nature.

7. On the motion of Mr. Merriman, the Convention adjourned at ten minutes to four o'clock p.m.

CAPE TOWN, *Wednesday*, 25TH *November*, 1908.

Ten o'clock a.m.

1. All the members were present, except Sir William Milton, Gen. de la Rey and Mr. Coghlan.

2. *Mr. Sauer*, as Chairman, brought up the Report of the Committee appointed by resolution of the Convention, dated the 23rd instant [page 76] on qualification, payment and privileges of members of Parliament as follows:

I. That Section I., sub-section (vi), now (v), of Mr. Hull's amendments [page 74] read as follows:—

(v) Holds any office of profit under the Crown within the Union.

But this sub-section does not apply to the office of any of the Ministers of State for the Union, or to any person in receipt of a pension from the Crown, or to an officer or member of His Majesty's Naval or Military Forces on retired or half-pay, or to any person who may from time to time be specially exempted by Act of Parliament or by authority of the House of Assembly.

II. That Section II. of Mr. Hull's amendments [page 74] read as follows:

(II) If a Senator or Member of the House of Assembly:

(i) Becomes subject to any of the disabilities mentioned in the last preceding section; or

(ii) Ceases to hold any qualifications required by law; or

(iii) Shall be absent for thirty consecutive days or more without special leave of the House;

his place shall thereupon become vacant.

III. That the subject matter of clause (iv) of the resolutions proposed by Mr. Jagger [page 73] be dealt with by Parliament.

IV. That the resolutions of which notice has been given by Mr. Hull [page 76] read as follows:—

1. If any person declared by the constitution to be incapable of sitting as a Senator or Member of the House of Assembly shall while so disqualified knowingly sit or vote as a Member of the Senate or House of Assembly, such person shall forfeit the sum of £100 to be recovered by the Treasurer of the Union by action in any Court of competent jurisdiction.

2. Each Senator and each Member of the House of Assembly shall receive an allowance of £..... a year, to be reckoned from the date on which he takes his seat, provided that for every working day on which he is absent there shall be deducted from such allowance the sum of £3.

A working day shall mean in respect of a Member any day during the Session on which the House of which he is a Member or any Committee of which he is a Member meets.

3. The powers, privileges and immunities of the Senate and of the House of Assembly and of the Members of the Committees of each House shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of the Parliament of the United Kingdom and of its Members and Committees at the establishment of the Union.

4. Each House of the Parliament shall make rules and orders with respect to the order and conduct of its business and proceedings, either separately or jointly with the other House.

3. *Mr. Morcom* moved, as a sub-section to follow the sub-sections agreed to yesterday on the Powers of Provincial Legislatures [pages 79-81]:

(vii) Licences for trading and all other purposes in order to the raising of a revenue for provincial, local or municipal purposes.

Discussion ensued.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

4. Minutes of previous meeting confirmed.

5. Debate on Mr. Morcom's motion on Powers of Provincial Legislatures continued.

After discussion,

The motion was put, and the Convention divided:

"AYES," 5.	
Greene, Col.	Fitzpatrick, Sir J. P.
Hyslop, Mr.	Hertzog, Gen.
Moor, Mr.	Hull, Mr.
Morcom, Mr.	Jagger, Mr.
Smythe, Mr.	Jameson, Dr.
	Lindsay, Mr.
"NOES," 24.	Maasdorp, Mr.
Beck, Dr.	Malan, Mr.
Botha, Gen.	Merriman, Mr.
Browne, Mr.	Sauer, Mr.
Burger, Gen.	Smartt, Dr.
De Villiers, Sir J. H.	Smuts, Gen.
De Wet, Gen.	Stanford, Col.
Farrar, Sir G. H.	Steyn, Mr.
Fischer, Mr.	Van Heerden, Mr.
	Walton, Mr.

The motion accordingly negatived.

Mr. Morcom moved:

(viii) The sale and supply of intoxicating liquors.

After discussion,

The motion was put, and the Convention divided:

"AYES," 5.	
Greene, Col.	Hertzog, Gen.
Hyslop, Mr.	Jagger, Mr.
Moor, Mr.	Jameson, Dr.
Morcom, Mr.	Lindsay, Mr.
Smythe, Mr.	Maasdorp, Mr.
	Malan, Mr.
"NOES," 17.	Merriman, Mr.
Beck, Dr.	Sauer, Mr.
De Villiers, Sir J. H.	Smartt, Dr.
Farrar, Sir G. H.	Smuts, Gen.
Fitzpatrick, Sir J. P.	Stanford, Col.
	Van Heerden, Mr.
	Walton, Mr.

The motion accordingly negatived.

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

6. *The President* read and put in:

(1) Letter from the Rt. Rev. the Bishop of Pretoria, dated Cape Town, the 23rd instant, transmitting a copy of a resolution adopted on the 10th instant by the Pretoria Diocesan Synod on the subject of the labours of the Convention, and expressing hope for a successful issue of its work.

(2) Letter from the Rt. Rev. the Bishop of Pretoria, dated Cape Town, the 23rd instant, transmitting a copy of a similar resolution adopted on the 20th instant by the Synod of Bishops of the Anglican Church in South Africa.

7. Discussion on powers of Provincial Legislatures continued.

Mr. Moor moved, as a sub-section to follow those already agreed to:

(ix) Local works and undertakings.

Mr. Merriman moved: To add:—

"within the Province other than railways, harbours and such works as extend beyond the borders of the Province, and subject to the power of Parliament to declare any work a national work, and to provide for its construction by arrangement with Provincial Councils or otherwise."

After discussion,

This amendment was put and agreed to.

Motion, as amended, put and agreed to, viz.:

(ix) Local works and undertakings within the Province other than railways, harbours and such works as extend beyond the borders of the Province, and subject to the power of Parliament to declare any work a national work, and to provide for its construction by arrangement with Provincial Councils or otherwise.

Mr. Moor moved:

(x) The incorporation of companies with local Provincial objects.

After discussion,

This motion was put and negatived.

Mr. Moor moved:

(xi) Property and civil rights in the Provinces.

After discussion,

This motion was put and negatived.

Mr. Moor moved:

(xii) The administration of justice in the Province, including the constitution, maintenance and organization of Provincial Courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those Courts.

After discussion,

This motion was put and negatived.

Mr. Moor moved:

(xiii) Local police.

After discussion,

This motion was put, and the Convention divided:

"AYES," 4.

Greene, Col.
Hyslop, Mr.
Moor, Mr.
Smythe, Mr.

"NOES," 22.

Beck, Dr.
Botha, Gen.
Browne, Mr.
Burger, Gen.
De Villiers, Sir J. H.
De Wet, Gen.
Fischer, Mr.
Fitzpatrick, Sir J. P.
Hertzog, Gen.
Hull, Mr.
Jagger, Mr.
Jameson, Dr.
Lindsay, Mr.
Maasdorp, Mr.
Malan, Mr.
Merriman, Mr.
Sauer, Mr.
Smartt, Dr.
Smuts, Gen.
Stanford, Col.
Van Heerden, Mr.
Walton, Mr.

The motion accordingly negatived.

Mr. Moor moved:

(xiv) The imposition of punishment by fine, penalty or imprisonment for enforcing any law or Ordinance of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

Agreed to.

Mr. Moor moved:

(xv) The registration of titles to land.

This motion put and negatived.

Mr. Moor moved:

(xvi) Mining and forestry.

This motion put and negatived.

Mr. Moor moved:

(xvii) Generally all matters of a merely local or private nature in the Province.

Gen. Smuts moved, as an amendment: After "matters" to insert "which in the opinion of the Governor-General-in-Council are."

Agreed to.

Motion, as amended, put and agreed to, viz.:

(xvii) Generally all matters which, in the opinion of the Governor-General-in-Council, are of a merely local or private nature in the Province.

Mr. Moor moved:

(xviii) Affairs of native tribes or other peoples until the Parliament of the Union otherwise provides.

After discussion,

This motion was put, and the Convention divided:

"AYES," 4.	
Greene, Col.	Fitzpatrick, Sir J. P.
Hyslop, Mr.	Hertzog, Gen.
Moor, Mr.	Hull, Mr.
Smythe, Mr.	Jagger, Mr.
	Jameson, Dr.
"NOES," 22.	Lindsay, Mr.
Beck, Dr.	Maasdorp, Mr.
Botha, Gen.	Malan, Mr.
Browne, Mr.	Merriman, Mr.
Burger, Gen.	Sauer, Mr.
De Villiers, Sir J. H.	Smartt, Dr.
De Wet, Gen.	Smuts, Gen.
Fischer, Mr.	Stanford, Col.
	Van Heerden, Mr.
	Walton, Mr.

The motion accordingly negatived.

Mr. Moor moved:

(xix) Lands reserved for natives and whether vested in trust or not.

After discussion,

With leave of the Convention,

This motion was withdrawn.

Mr. Merriman moved:

(xx) Roads, outspans, ponts and bridges other than bridges connecting two Provinces.

After discussion,

This motion was put and agreed to.

Mr. Merriman moved:

(xxi) Markets and pounds.

Agreed to.

Mr. Merriman moved:

(xxii) Agricultural Societies and fencing of roads.

Mr. Jagger moved, as an amendment: To substitute "agriculture."

Mr. Malan moved: To omit "Agricultural Societies and."

Col. Greene moved: To omit "of roads."

After discussion,

The motion, and the several amendments thereon, were put and negatived.

Mr. Merriman moved:

(xxiii) Bush and grass fires, eradication of weeds, registration of brands.

Mr. Van Heerden moved: To omit "eradication of weeds."

After discussion,

The motion, and the amendment thereon, were put and negatived.

8. *The President* read and put in a letter from H.E. Sir Walter Hely-Hutchinson, dated the 25th instant, regretting that his recent illness had prevented his acknowledging at an earlier date the receipt of the President's letter of the 15th October on the subject of the transmission to him of copies of each day's proceedings, and stating that His Excellency recognized the necessity of regarding these communications as strictly confidential.

9. On the motion of Dr. Smartt, the Convention adjourned at four o'clock p.m.

CAPE TOWN, *Thursday*, 26th *November*, *1908*.

Ten o'clock a.m.

1. All the members were present, except Sir William Milton and Gen. De la Rey.

2. *The President* read the resolution with the sub-sections on powers of Provincial Councils, as finally agreed to yesterday and on the previous day, viz.:—

"Subject to the provisions of this Act the Administrator, with the advice and consent of the Provincial Council, may make ordinances in relation to matters coming within the following classes of subjects, that is to say:

"1. Direct taxation within the Province in order to the raising of a revenue for Provincial purposes.

For this resolution as finally adopted see pages 112-113. G.R.H.

(2) The borrowing of money on the sole credit of the Province with the consent of the Governor-General-in-Council, and in accordance with regulations to be framed by Parliament.

*(3) The establishment and tenure of Provincial offices and the appointment and payment of Provincial officers, subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of Provincial public officers.

(4) The establishment, maintenance and management of hospitals and charitable institutions.

(5) Municipal institutions, divisional councils and other local institutions of a similar nature.

(6) Local works and undertakings within the Province other than railways, harbours and such works as extend beyond the borders of the Province, and subject to the power of Parliament to declare any work a national work, and to provide for its construction by arrangement with Provincial Councils or otherwise.

(7) The imposition of punishment by fine, penalty or imprisonment for enforcing any law or ordinance of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

†(8) Generally all matters which, in the opinion of the Governor-General-in-Council, are of a merely local or private nature in the Province.

(9) Roads, outspans, ponts and bridges other than bridges connecting two Provinces.

(10) Markets and pounds.

3. *Mr. Browne* moved: That at the suspension of business at one o'clock to-day the Convention adjourn until to-morrow.

Mr. Malan moved, as an amendment: To omit the words "to-day" and "to-morrow," and substitute "to-morrow" and "Monday."

After discussion,

The debate was adjourned until after the eleven o'clock interval.

4. *Gen. Smuts* moved: That the whole question relating to the constitutional powers of Provincial Councils, including the resolutions already passed on that subject, be referred to a Committee for consideration and report.

Gen. Hertzog objected to the reference to a Committee of any resolutions already agreed to by the Convention, and the words "including the resolutions already passed on that subject" were omitted from the motion.

After discussion,

* This sub-section was subsequently omitted—see page 110.

† See page 110.—G.R.H.

With leave of the Convention,

The motion proposed by Gen. Smuts was withdrawn.

5. *Mr. Merriman* moved:

In each Province there shall be a Chief Executive Officer appointed by the Governor-General-in-Council, who shall be styled the Administrator of the Province. He shall hold office during the pleasure of the Governor-General, but any Administrator appointed after the commencement of the first Session of Parliament shall not be removable within five years from his appointment, except for cause assigned, which shall be communicated by message to both Houses of Parliament within one week thereafter if Parliament is then sitting, and if not, then within one week after the commencement of the next ensuing Session.

Discussion ensued.

Business suspended at 11 o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

6. Minutes of previous meeting confirmed.

7. *Mr. Malan* moved, as an unopposed motion: This Convention having learned of the sad family bereavement which has befallen Mr. Morcom, one of the Natal delegates, extends to him its sincere and heartfelt sympathy.

Agreed to.

Mr. Moor, on behalf of Mr. Morcom, tendered his sincere thanks to the Convention for the vote of condolence just passed.

8. Debate resumed on motion for adjournment by Mr. Browne [page 87], which, after discussion, was put and agreed to, and the amendment by Mr. Malan dropped.

9. *Mr. Malan* moved, as an unopposed motion: That at the suspension of business at one o'clock to-morrow, the Convention adjourn until Monday.

Agreed to.

10. Debate on motion by Mr. Merriman on appointment of Provincial Administrators [printed above] continued.

After discussion,

On the motion of Mr. Fischer, the debate was adjourned until to-morrow.

11. On the motion of Mr. Fischer, the Convention adjourned at one o'clock p.m.

CAPE TOWN, *Friday*, 27th *November 1908*.

Ten o'clock a.m.

1. All the members were present, except Sir William Milton and Gen. De la Rey.

2. *The President* communicated an invitation to the delegates and their staffs from His Worship the Mayor of the

Paarl to visit that place on Saturday, the 5th December, and another from His Worship the Mayor of Cape Town to visit Table Mountain on Saturday, the 12th December.

On the motion of the President,

Resolved: That the Convention will not sit on Saturday, the 5th, and on Saturday, the 12th December.

Gen. Botha moved: That the Convention greatly regrets it is unable to accept the kind invitations to visit the Paarl and Table Mountain.

Mr. Sauer moved: That a decision on this matter be postponed until two o'clock on Monday afternoon, in order that the Chief Secretary may ascertain and inform the President how many delegates desire to accept the invitations.

Agreed to.

3. Adjourned debate on motion by Mr. Merriman on appointment of Provincial Administrators [page 88] resumed.

The President stated that when this debate was adjourned yesterday, the question before the Convention was:

In each Province there shall be a Chief Executive Officer appointed by the Governor-General-in-Council, who shall be styled the Administrator of the Province. He shall hold office during the pleasure of the Governor-General, but any Administrator appointed after the commencement of the first Session of Parliament shall not be removable within five years from his appointment except for cause assigned, which shall be communicated by message to both Houses of Parliament within one week thereafter if Parliament is then sitting, and if not, then within one week after the commencement of the next ensuing Session.

Debate resumed.

Discussion continued.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

4. Minutes of previous meeting confirmed.

5. Discussion on motion by Mr. Merriman on appointment of Provincial Administrators [page 88] continued.

Gen. Smuts moved, as an unopposed motion: That this motion [page 88] together with the remaining notices by Mr. Merriman on the Constitution of Provincial Councils and Executive and their powers and functions, Mr. Jagger's proposed amendment, and the notices by Mr. Morcom,[3] be referred to a Committee consisting of the President, two Members from each delegation to be nominated by the respective Prime Ministers, and one from Rhodesia, the Committee to have power to make recommendations to the Convention in reference to the whole question.

[3] The notices and amendment referred to are printed at the end of this days proceedings—pages 90-93.—G.R.H.

After discussion,

This motion was put and agreed to.

The Members of the Committee were then nominated as follows: *Cape of Good Hope*, Mr. Merriman, Dr. Jameson; *Natal*, Col. Greene, Mr. Hyslop; *Transvaal*, Gen. Smuts, Sir George Farrar; *Orange River Colony*, Mr. Fischer, Gen. Hertzog (with Mr. Steyn as alternate); *Rhodesia*, Mr. Coghlan.

6. On the motion of Mr. Van Heerden, the Convention adjourned at a quarter to one o'clock p.m. until Monday, the 30th instant, at ten o'clock a.m.

Notices of motion by Mr. Merriman (with an amendment by Mr. Jagger) and Mr. Morcom referred to Committee on Provincial Constitutions [page 89].

I. *Mr. Merriman.*

1. The salaries of the Administrators shall be fixed and provided by the Parliament of South Africa.

2. There shall be a Provincial Council in each Province, consisting of the same number of Members as are elected for the House of Assembly in the Province.

3. The Members of the Provincial Council shall be elected by the persons qualified to vote for the election of Members of the House of Assembly in the Province voting in the same electoral areas as are delimited for the election of Members of the House of Assembly and on the same system of proportional representation.

4. Any person qualified as a voter shall be qualified to be a Member of the Provincial Council subject to the same disqualifications as apply in the case of Members of the House of Assembly.

5. Each Provincial Council shall continue for three years from the date of its first meeting, and shall not be subject to dissolution save by effluxion of time.

6. The Administrator of each Province shall by proclamation fix such times for holding the sessions of the Provincial Council as he may think fit, and he may from time to time prorogue such Council when expedient. Provided that there will be a session of every Provincial Council once at least in every year, so that no greater period than twelve calendar months intervenes between the last sitting of the Council in one Session and the first sitting of the Council in the next session.

7. It shall be lawful for every Provincial Council to make rules for the conduct of its proceedings. Such rules shall be transmitted by the Administrator to the Governor-General and shall have full force and effect unless and until the Governor-General-in Council shall express his disapproval thereof by writing addressed to the Administrator.

8. There shall be freedom of speech in the Provincial Council, and such freedom of speech shall not be liable to be impeached or questioned in any Court or place out of such Council.

9. Each Provincial Council shall at its first meeting after any general election elect from among its members or otherwise on the system of proportional representation provided for the election of members of the House of Assembly not less than three and not more than five persons as shall be prescribed by the Governor-General-in-Council, to assist and advise the Administrator and with him to form an Executive Committee of the Province. Each Executive Committee shall hold office until the election of the next succeeding Executive Committee in the same manner. The Members of the Executive Committee shall receive such remuneration as the Provincial Council, with the approval of the Governor-General-in-Council, shall determine. A Member of the Provincial Council shall not be disqualified from sitting as a Member by reason of his having been elected as a Member of the Executive Committee.

10. The Executive Committee shall on behalf of the Council carry on the Provincial Administration, and shall be jointly responsible for all the administrative acts of the Province. In case of a difference of opinion the decision shall be according to the opinion of the majority, and the Administrator, as President, shall have both a deliberative and a casting vote.

11. Until otherwise provided by Parliament, the seats of Government in the Provinces shall be as follows:—

Cape Town for the Cape of Good Hope.
Pietermaritzburg for Natal.
Pretoria for the Transvaal.
Bloemfontein for Orangia.

12. Subject to the provisions of this Act, the Provincial Councils shall have powers of administration in respect of the matters in respect of which legislative powers are delegated to them and also such powers of administration as shall be entrusted to them by the Parliament, and unless and until Parliament otherwise provides, powers of administration shall be entrusted to them in relation to the following matters:—

(*a*) Education other than higher and technical education.
(*b*) Acts relating to public health, animal diseases, fish and game preservation, weights and measures and irrigation.

13. It shall be lawful for any Provincial Council to recommend to the Union Parliament the passing of any law relating to matters not falling within the powers delegated to such Council.

14. In regard to any law which requires to be passed by means of a private Act of the Union Parliament it shall be lawful for the Provincial Council upon the request of the Parliament and subject to such procedure as shall be laid down by the Parliament, to take evidence by means of a Select Committee or otherwise for and against the passing of such law and upon receipt of a report from such Council, together with the evidence upon which it is founded, it shall be lawful for the Parliament to pass such Act without further evidence being taken in support thereof.

15. Subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of provincial public officers, the Provincial Council shall have power to appoint such officers as may be necessary for carryng out the services entrusted to them, and to make and enforce regulations for the organization and discipline of such officers.

16. It shall not be lawful for any Provincial Council to pass any ordinance appropriating any money to any public service unless the Administrator shall have first recommended to the Council to make provisions for the specific service to which such money is to be appropriated; and no such money shall be issued except by warrants to be granted by the Administrator.

17. When a proposed ordinance has been passed by a Provincial Council it shall be presented to the Governor-General-in-Council for his assent. The Governor-General-in-Council shall declare within one month from the presentation to him of the proposed ordinance that he assents thereto, or that he withholds assent, or that he reserves it for further consideration. A proposed ordinance so reserved shall not have any force unless and until within one year from the day on which it was presented to the Governor-General-in-Council he makes known by proclamation that it has received his assent. A proposed ordinance so assented to and promulgated shall subject to this ordinance have the force of law within the Province.

18. After the establishment of the Union and until otherwise provided by Parliament there shall be annually paid out of the revenues of the Union to the Administrator of each Province:

(*a*) An amount equal to the sums expended out of the public funds of the Colony previously constituting such Province in the financial year 1908 to 1909 upon education, other than higher and technical education, and upon all other services in respect of which powers of administration have been or may hereafter be entrusted to the Provincial Council of each Province. The amount of such sums shall be ascertained by the Auditor-General of the Union.

(*b*) Such further sums as the Parliament shall consider necessary for the services of the provincial administration.

19. All sums directed to be paid to the Administrator for the services of the Provinces shall be charged and paid out of the revenues of the Union at such times and in such instalments as the Governor-in-Council may direct.

20. The Administrator of every Province and the Members of every Executive Committee not having a seat in the Provincial Council shall have the right to take part in the debates of the Council, but they shall not be entitled to vote.

All powers, authorities and functions lawfully exercised at the time of the proclamation of the Union by divisional or municipal councils or any other duly constituted local authority shall be and remain in force until altered or amended by the Parliament of the Union or by the Provincial Council having power in that behalf.

21. In all matters in respect of which powers of administration have been or may hereafter be entrusted to the Provincial Council, all functions which by law are at the Union vested in or exercisable by the Governor or any Minister of the Crown of the existing Colonies, shall, so far as they are capable of being exercised after Union, be vested in and exercisable by the Administrators of the corresponding provinces respectively.

II. *Mr. Jagger* (as an amendment to the motion proposed by Mr. Merriman on appointment of Provincial Administrators) [page 88]: To omit all the words after "Province" in line 3 of paragraph 1, and substitute "He shall hold office for a term of five years, and shall not be removable from his appointment except for cause assigned, which shall be communicated by message to both Houses of Parliament within one week thereafter if Parliament be then sitting, and if not within one week after the commencement of the next ensuing Session, or except upon the receipt by the Governor-General of an address signed by the majority of Members of the Provincial Council praying for such removal."

III. *Mr. Morcom* (The following clauses of the draft "British South Africa Act"[35] laid on the Table on the 16th October):—

104. There shall be a Legislature for Natal consisting of the Administrator and of one House, styled the Legislative Assembly of Natal.

105. The Legislative Council shall be abolished.

106. Until the Legislature of Natal otherwise decides, the Legislative Assembly of Natal shall be composed of twenty-five members to be elected to represent the following electoral districts, viz.:—

Pietermaritzburg City.
Pietermaritzburg County—
    Umgeni Division.
    Lion's River Division.
    Ixopo Division.
Durban Borough.
Durban County.
Victoria County.
Umvoti County.
Weenen County.
Klip River County.
    Klip River Division.
    Newcastle and Dundee.
Alexandria and Alfred.
Zululand.

This draft, which was submitted by the Natal delegates, is not print'ed.—G.R.H.

Eshowe and Melmoth.
Vryheid.
Utrecht.

107. Until the Legislature of Natal otherwise provides, all laws which at the constitution of the Union are in force in Natal relative to the following matters, or any of them, namely, the qualifications and disqualifications of persons to be elected or to sit or vote as members of the Legislative Assembly of Natal, the qualifications or disqualifications of voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which such elections may be continued, and the trial of controverted elections, and the proceedings incident thereto, the vacating of the seats of members, and the issuing and execution of new writs in case of seats vacated otherwise than by dissolution shall respectively apply to elections of members to serve in the Legislative Assembly. The Legislature of Natal shall have power to make laws on all matters whatsoever relating to the Natal Constitution, and shall have the power to amend or repeal any of the sections 103 to 108 of this Act.

108. Every Legislative Assembly of Natal shall continue for four years from the day of the return of the writs for choosing the same: Subject nevertheless to the Legislative Assembly of Natal being sooner dissolved by the Governor of Natal.

109. There shall be a session of the Legislature of Natal once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in one session and its first sitting in the next session.

CAPE TOWN, *Monday*, 30TH *November*, *1908*.

Ten o'clock a.m.

1. All the Members were present, except Sir William Milton.

2. *Mr. Browne*, as Chairman, brought up the report of the Committee appointed by resolution of the Convention, dated the 16th October, 1908 [page 14] on Statistics, as follows:—

The Committee appointed by the Convention on the 15th October, 1908, to obtain financial and statistical statements from the Governments of the various Colonies, have the honour to present the enclosed volume,* containing the information which the Committee have thought it desirable to place before the Convention.

Mr. Browne further stated that he would like to take the opportunity of expressing the indebtedness of the Committee to the Treasurers, Audit Offices and Railway Deparments of the four Colonies for the immense trouble they have taken in collecting and arranging this information, also to Mr. Brand, the Secretary of the Committee, and to Mr. Court, the Statistician, for the valuable work they have performed in the matter.

3. *The President* stated that Sir William Milton had intimated his inability to attend the further sittings of the Convention in consequence of the pressure of his official duties, and asked that he might receive the daily proceedings of the Convention.

* The volume referred to has not been reprinted as the information it contains would now be out-of-date. G.R.H.

Ordered: That a copy of the daily proceedings be forwarded to Sir William Milton by registered book-post, in the same manner as is being done for the several Governors of South African Colonies.

4. Report of Committee on qualification, payment and privileges of members of Parliament to be considered.

The President stated that this report would be found on pages 81-82.

Mr. Sauer moved: That the following be sub-section (v) of Section I. of Mr. Hull's proposals relating to the qualification of Members of Parliament as recapitulated on page 77, viz.:

(v) Holds any office of profit under the Crown within the Union.

But this sub-section does not apply to the office of any of the Ministers of State for the Union, or to any person in receipt of a pension from the Crown, or to an officer or member of His Majesty's Naval or Military Forces on retired or half-pay, or to any person who may from time to time be specially exempted by Act of Parliament or by authority of the House of Assembly.

Mr. Jagger moved, as an amendment: After "Forces" to insert "in receipt of pay or."

Dr. Smartt moved: After "half-pay" to insert "or to any member of His Majesty's Volunteer Forces in receipt of pay from the Government."

After discussion,

These amendments put and negatived.

The original motion was then put and agreed to.

Mr. Sauer moved: That the following be Section II. of Mr. Hull's proposals [page 74] for the disqualification of Members of Parliament:

II. If a Senator or Member of the House of Assembly:

(i) becomes subject to any of the disabilities mentioned in the last preceding section: or

(ii) ceases to hold any qualifications required by law; or

(iii) shall be absent for thirty consecutive days or more without special leave of the House,

his place shall thereupon become vacant.

Mr. Hull moved, as an amendment: After "absent" to insert "from the sittings of the Senate or of the House of Assembly."

Mr. Jagger moved: To omit "for thirty consecutive days or more," and substitute "one whole ordinary Session."

After discussion,

The last amendment was put and agreed to.

The amendment proposed by Mr. Hull dropped.

Motion, as amended, put and agreed to viz.:—

II. If a Senator or Member of the House of Assembly:

(i) becomes subject to any of the disabilities mentioned in the last preceding section; or

(ii) ceases to hold any qualifications required by law; or

(iii) shall be absent one whole ordinary Session without special leave of the House,

his place shall thereupon become vacant.

Mr. Jagger moved: That the following be added as a sub-section (iv) to the motion just agreed to, viz.:—

(iv) Has any direct or indirect pecuniary interest in any agreement with the Public Service of the Union, otherwise than as a Member and in common with other members of an incorporated company consisting of more than twenty-five persons, and provided he is not a director of such company.

Discussion ensued.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

5. Minutes of previous meeting confirmed.

6. Consideration of Report of Committee on qualification, payment and privileges of Members of Parliament and motion by Mr. Jagger [printed above] continued.

Col. Greene moved, as an amendment to Mr. Jagger's motion: To omit all the words after "members of" and substitute "a company incorporated with limited liability."

Mr. Lindsay moved: That this question be referred to a Committee consisting of the four Prime Ministers for re-consideration.

After discussion,

With leave of the Convention,

The original motion by Mr. Jagger, and the amendments thereon were withdrawn.

Mr. Sauer moved:

If any person declared by the Constitution to be incapable of sitting as a Senator or Member of the House of Assembly shall while so disqualified knowingly sit or vote as a Member of the Senate or House of Assembly such person shall forfeit the sum of £100, to be recovered by the Treasurer of the Union by action in any Court of competent jurisdiction.

Mr. Malan moved, as an amendment: To omit "the Constitution" and substitute "by law."

Agreed to.

Mr. Hull moved: To omit "forfeit the sum" and substitute "be liable to a penalty": and after "£100" to insert "for each day he shall so sit or vote."

Agreed to.

Motion, as amended, put and agreed to, viz.:

If any person declared by law to be incapable of sitting as a Senator or Member of the House of Assembly shall while so disqualified knowingly sit or vote as a Member of the Senate or House of Assembly such person shall be liable to a penalty

of £100 for each day he shall so sit or vote, to be recovered by the Treasurer of the Union by action in any Court of competent jurisdiction.

Mr. Sauer moved:-

Each Senator and each Member of the House of Assembly shall receive an allowance of £.... a year, to be reckoned from the date on which he takes his seat; provided that for every working day on which he is absent there shall be deducted from such allowance the sum of £3.

A working day shall mean in respect of a Member any day during the Session on which the House of which he is a Member or any Committee of which he is a Member meets.

Mr. Hull moved: To fill up the blank with "£300," and to reduce the amount of deduction from "£3" to "£2."

Mr. Walton moved: To omit all the words after "allowance of" down to "£3" and substitute:

"(a) If resident within twelve miles from the Houses of Parliament, one guinea a day for each day he may be present at a meeting of Parliament.

(b) If resident beyond twelve miles from the Houses of Parliament, two guineas a day in respect of every day on which he shall be absent from home on his Parliamentary duties, provided that no Member shall receive more than £300 in any one year."

Mr. Jagger moved: To substitute the following proviso for that proposed by Mr. Walton: "Provided that no remuneration or allowance shall in respect of any one Session of Parliament be claimable by any Member for a greater period than 120 days."

Mr. Malan moved: To insert after "a year" the words "under such rules as shall be framed by Parliament."

Dr. Beck moved: To add to the original motion: "provided that when a Senator or Member of the House of Assembly resides within fifteen miles of the seat of Parliament he shall receive a sum not exceeding £180 a year."

Mr. Fischer moved: Each Senator and each Member of the House of Assembly shall receive an allowance to cover his travelling expenses, if any, to and from attendance at Parliament and for subsistence during Sessions of Parliament, the amount of such allowance and the regulations under which the same shall be payable shall be determined from time to time by Parliament, with this proviso that the subsistence allowance, etc., for any Member shall not exceed £300 in any year.

After discussion,

The President put the question that all the words after "allowance of" proposed to be omitted stand part of the motion, which passed in the affirmative, and the amendments proposed by Mr. Walton, Mr. Jagger and Mr. Fischer dropped.

The amendment proposed by Mr. Malan put, and the Convention divided:—

"AYES," 18.	Van Heerden, Mr.
	Walton, Mr.
Beck, Dr.	
Browne, Mr.	
Fischer, Mr.	"NOES," 11.
Greene, Col.	
Hertzog, Gen.	Botha, Gen.
Hyslop, Mr.	Burger, Gen.
Jameson, Dr.	De la Rey, Gen.
Maasdorp, Mr.	De Villiers, Sir J. H.
Malan, Mr.	Farrar, Sir G. H.
Merriman, Mr.	Fitzpatrick, Sir J. P.
Morcom, Mr.	Hull, Mr.
Sauer, Mr.	Jagger, Mr.
Smartt, Dr.	Lindsay, Mr.
Smythe, Mr.	Moor, Mr.
Stanford, Col.	Smuts, Gen.
Steyn, Mr.	

The amendment accordingly agreed to.

The amendment proposed by Mr. Hull put and agreed to.

The amendment proposed by Dr. Beck put and negatived.

Mr. Jagger moved: To add after "sum of £2" the words "provided further that no such allowance shall be made to a Minister receiving a salary under the Crown, or to the President of the Senate or the Speaker of the House of Assembly.

Upon which the Convention divided:

"AYES," 20.	Stanford, Col.
	Steyn, Mr.
Beck, Dr.	Van Heerden, Mr.
De Villiers, Sir J. H.	Walton, Mr.
Fischer, Mr.	
Greene, Col.	
Hertzog, Gen.	"NOES," 9.
Hyslop, Mr.	
Jagger, Mr.	Botha, Gen.
Jameson, Dr.	Browne, Mr.
Maasdorp, Mr.	Burger, Gen.
Malan, Mr.	De la Rey, Gen.
Merriman, Mr.	Farrar, Sir G. H.
Moor, Mr.	Fitzpatrick, Sir J. P.
Morcom, Mr.	Hull, Mr.
Sauer, Mr.	Lindsay, Mr.
Smartt, Dr.	Smuts, Gen.
Smythe, Mr.	

The amendment accordingly agreed to.

Motion, as amended, put and agreed to, viz.:—

Each Senator and each Member of the House of Assembly shall receive an allowance of £300 a year, under such rules

as shall be framed by Parliament, to be reckoned from the date on which he takes his seat: Provided that for every working day on which he is absent there shall be deducted from such allowance the sum of £2: Provided further that no such allowance shall be made to a Minister receiving a salary under the Crown, or to the President of the Senate, or the Speaker of the House of Assembly.

A working day shall mean in respect of a Member any day during the Session on which the House of which he is a Member or any Committee of which he is a member meets.

Mr. Sauer moved:

The powers, privileges and immunities of the Senate and of the House of Assembly and of the Members of the Committees of each House shall be such as are declared by the Parliament and until declared shall be those of the Commons House of the Parliament of the United Kingdom and of its Members and Committees at the establishment of the Union.

Agreed to.

8. *Mr. Sauer* moved:

Each House of Parliament shall make rules and orders with respect to the order and conduct of its business and proceedings either separately or jointly with the other House.

Mr. Walton moved, as an amendment: To omit all the words after "proceedings."

Agreed to.

Motion, as amended, put and agreed to, viz.:—

Each House of Parliament shall make rules and orders with respect to the order and conduct of its business and proceedings.

Mr. Walton moved: That in the case of a joint meeting of both Houses the rules of the House of Assembly shall apply.

Agreed to.

10. *The President* stated that a considerable number of Members of the Convention had intimated to the Chief Secretary their desire to accept the invitations for the Paarl and Table Mountain on the 5th and 12th proximo respectively, and that the Mayors of the Paarl and of Cape Town had been informed accordingly.

11. On the motion of Mr. Malan, the Convention adjourned at one o'clock p.m.

CAPE TOWN, *Tuesday*, 1st *December, 1908.*

Ten o'clock a.m.

1. All the Members were present, except Sir William Milton.

2. *Mr. Malan* presented a petition from 181 men and women, inhabitants of the Cape Colony, praying that citizenship in United South Africa may be granted to all women who possess the same qualifications as may be required from men.

3. *The President* stated that the Committee on Provincial Constitutions, at the time of their adjournment at half-past five yesterday afternoon, had not been able to complete the consideration of the questions referred to them, and suggested that the Convention might now adjourn for the purpose of enabling the Committee to proceed.

Ordered accordingly, and the Convention thereupon adjourned at ten minutes past ten o'clock a.m.

CAPE TOWN, *Wednesday*, 2ND *December*, *1908*.
Ten o'clock a.m.

1. All the Members were present, except Sir William Milton.

2. *The President*, as Chairman, brought up the Report of the Committee appointed by Resolution of the Convention dated the 27th ultimo [pages 89-90] on Constitution of Provincial Councils and Executives and their powers and functions, as follows:—

Your Committee, having considered the following Notices:

(1) By Mr. Merriman [pages 90-92], with Mr. Jagger's amendment [page 92].

(2) By Mr. Morcom [pages 92-93].

and also the procedure on the proposals made by Mr. Moor in regard to the powers of Provincial Councils, as well as the resolutions adopted on the 24th and 25th ultimo on this subject [pages 86-87], have agreed to the following resolutions:—

1. In each Province there shall be a Chief Executive Officer appointed by the Governor-General-in-Council, who shall be styled the Administrator of the Province.

   In the appointment of Administrators for any Province the Governor-General-in-Council shall as far as practicable give preference to residents in such Province.

   Such Administrators shall hold office for a term of five years, and shall not be removable except for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal if Parliament be then sitting, and if not within one week after the commencement of the next ensuing Session.

2. The salaries of the Administrators shall be fixed and provided by the Parliament of South Africa, and shall not be reduced during their respective terms of office.

3. There shall be a Provincial Council in each Province, consisting of the same number of Members as are elected for the House of Assembly in the Province.

4. The members of the Provincial Council shall be elected by the persons qualified to vote for the election of Members of the House of Assembly in the Province voting in the same electoral areas as are delimited for

the election of Members of the House of Assembly and on the same system of proportional representation.

5. Any person qualified as a voter shall be qualified to be a member of the Provincial Council, subject to the same disqualifications as apply in the case of Members of the House of Assembly.

6. Each Provincial Council shall continue for three years from the date of its first meeting, and shall not be subject to dissolution save by effluxion of time.

7. The Administrator of each Province shall by Proclamation fix such times for holding the Sessions of the Provincial Council as he may think fit, and he may from time to time prorogue such Council when expedient. Provided that there shall be a session of every Provincial Council once at least in every year, so that no greater period than twelve calendar months intervenes between the last sitting of the Council in one Session and the first sitting of the Council in the next Session.

8. It shall be lawful for every Provincial Council to make rules for the conduct of its proceedings. Such rules shall be transmitted by the Administrator to the Governor-General, and shall have full force and effect unless and until the Governor-General-in-Council shall express his disapproval thereof by writing addressed to the Administrator.

9. There shall be freedom of speech in the Provincial Councils, and such freedom of speech shall not be liable to be impeached or questioned in any Court or place out of such Council.

10. Each Provincial Council shall at its first meeting after any General Election, elect from among its Members, or otherwise, on the system of proportional representation not less than three and not more than five persons, such as shall be prescribed by the Governor-General-in-Council in respect of such Province, to assist and advise the Administrator, and with him to form an Executive Committee of the Province. Each Executive Committee shall hold office until the election of the next succeeding Executive Committee in the same manner. The Members of the Executive Committee shall receive such remuneration as the Provincial Council with the approval of the Governor-General-in-Council shall determine. A member of the Provincial Council shall not be disqualified from sitting as a Member by reason of his having been elected as a Member of the Executive Committee.

11. The Executive Committee shall, on behalf of the Council, carry on the Provincial administration, and shall be jointly responsible for all the administrative acts of the Province. In case of a difference of opinion

the decision shall be according to the opinion of the majority, and the Administrator, as President, shall have both a deliberative and a casting vote.

12. Until otherwise provided by Parliament, the seats of Government in the Provinces shall be as follows:—

..... for the Cape of Good Hope.
..... for Natal.
..... for the Transvaal.
..... for Orange.

Resolution adopted on powers of Provincial Councils [pages 86-87].

In regard to this resolution, which was adopted on the 24th and 24th ultimo, your Committee recommend that in sub-section (iii) the word "such" be substituted for "Provincial" where it occurs the second and third time; and that the following words be omitted from sub-section (viii), viz.: "in the opinion of the Governor-General-in-Council," on the ground that the Governor-General-in-Council could express his opinion by means of his proposed veto.

They further recommend the reconsideration of a new sub-section (xi) in lieu of the sub-section which was negatived on the 25th ultimo [page 84], and new sub-sections (xii), xiii) and (xiv).

Resolution No. 13 will then read as follows:

13. Subject to the provisions of this Act, the Administrator, with the advice and consent of the Provincial Council, may make ordinances in relation to matters coming within the following classes of subjects, that is to say:—

(1) Direct taxation within the Province in order to the raising of a revenue for Provincial purposes.

(2) The borrowing of money on the sole credit of the Province with the consent of the Governor-General-in-Council, and in accordance with regulations to be framed by Parliament.

(3) The establishment and tenure of Provincial officers, and the appointment and payment of such officers, subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of such public officers.

(4) The establishment, maintenance and management of hospitals and charitable institutions.

(5) Municipal institutions, divisional councils and other local institutions of a similar nature.

(6) Local works and undertakings within the Province other than railways, harbours and such works as extend beyond the borders of the Province, and subject to the power of Parliament to declare any work a national work, and to provide for its construction by arrangement with Provincial Councils or otherwise.

(7) The imposition of punishment by fine, penalty or imprisonment for enforcing any law or ordinance of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.
(8) Generally all matters which are of a merely local or private nature in the Province.
(9) Roads, outspans, ponts and bridges other than bridges connecting two Provinces.
(10) Markets and pounds.
(11) Licences for the exercise of any trade or occupation and for any house or place of amusement in order to the raising of a revenue for provincial, local or municipal purposes.
(12) Education, other than higher education.
(13) Agriculture, to the extent and subject to the conditions to be defined by Parliament.
(14) Fish and game preservation.

The remaining resolutions now agreed to are as follows:

14. Subject to the provisions of this Act, the Provincial Councils shall, through the Executive Committees, have powers of administration in relation to the matters in respect of which legislative powers are delegated to them, and also such powers of administration as shall be entrusted to them by the Parliament, and unless and until Parliament otherwise provides, powers of administration shall be entrusted to them in relation to the following matters: Acts relating to public health, animal diseases, and weights and measures.

15. It shall be lawful for any Provincial Council to recommend to the Union Parliament the passing of any law relating to matters not falling within the powers delegated to such Council.

16. In regard to any law which requires to be passed by means of a private Act of the Union Parliament, it shall be lawful for the Provincial Council, subject to such procedure as shall be laid down by the Parliament, to take evidence by means of a Select Committee or otherwise for and against the passing of such law, and upon receipt of a report from such Council, together with the evidence upon which it is founded, it shall be lawful for the Parliament to pass such Act without further evidence being taken in support thereof.

17. It shall not be lawful for any Provincial Council to pass any ordinance appropriating any money to any public service unless the Administrator shall have first recommended to the Council to make provision for the specific service to which such money is to be appropriated; and no such money shall be issued except by warrant to be granted by the Administrator.

18. When a proposed ordinance has been passed by a Provincial Council it shall be presented to the Governor-General-in-Council for his assent. The Governor-General-in-Council shall declare within one month from the presentation to him of the proposed ordinance that he assents thereto, or that he withholds assent, or that he reserves it for further consideration. A proposed ordinance so reserved shall not have any force unless and until within one year from the day on which it was presented to the Governor-General-in-Council he makes known by proclamation that it has received his assent. A proposed ordinance so assented to and promulgated shall subject to this Act have the force of law within the Province.

19. The Governor-General-in-Council may appoint from time to time one or more persons to audit the accounts of the Provincial Councils. There shall be paid to such auditors out of the revenues of the Union Government such salaries as the Parliament shall direct.

Such auditors shall report from time to time to the Governor-General and the Administrators their approval or disapproval of the accounts, with such remarks and observations in relation thereto as they may think fit, and such report shall be laid before the Parliament and the Provincial Councils, together with the accounts of the year to which the same may relate.

20. The Administrator of every Province and the Members of every Executive Committee not having a seat in the Provincial Council shall have the right to take part in the debates of the Council, but they shall not be entitled to vote.

21. All powers, authorities and functions lawfully exercised at the time of the proclamation of the Union by divisional or municipal councils, or any other duly constituted local authority, shall be and remain in force until altered or amended by the Parliament of the Union or by the Provincial Council having power in that behalf.

22. In all matters in respect of which powers of administration have been or may hereafter be entrusted to the Provincial Councils the powers and functions which by law are at the Union vested in or exercisable by the Governor or any Minister of the Crown of the Colonies as existing at the date of the Union, shall, so far as they are capable of being exercised after Union, be vested in and exercisable by the Administrators of the corresponding Provinces respectively.

23. The Parliament of the Union may on the petition of the Provincial Council of any Province alter or amend the boundaries of such Province or may divide such Province into two or more Provinces.

Your Committee have not dealt with the notices of motion Nos. 18 and 19 by Mr. Merriman on pages 91-92, relating to Provincial revenue and expenditure, being of opinion that it is desirable to consider such matters in conjunction with the general question of finance and trade, and that such general question should be referred to a special Committee of the Convention, consisting of two members of each delegation to be nominated by the Prime Ministers and one for Rhodesia.

Gen. Botha moved: That the Convention do not proceed with the ordinary business of the day until two o'clock p.m., in order to enable members to discuss this report informally before its consideration by the Convention.

After discussion,

This motion was put and agreed to.

3. *The President* submitted an invitation from Rear-Admiral G. le C. Egerton, C.B., to visit the Selborne Dock, Simon's Town, on Tuesday, the 15th instant.

On the motion of Dr. Smartt,

The invitation was accepted.

4. *The President* submitted an invitation from the Consistory of the Dutch Reformed Church, requesting the Convention to attend a Special Service at the Adderley Street Church on Sunday, the 13th instant.

On the motion of Mr. Malan,

The invitation was accepted.

Business suspended at half-past ten o'clock a.m.

Two o'clock p.m.

Business resumed.

5. Minutes of two previous meetings confirmed.

6. *Gen. Botha* moved: That business be again suspended until three o'clock, to enable members to further consider the report of the Committee on Provincial Constitutions, and that the Convention adjourn to-day at five o'clock.

Agreed to, and business was accordingly suspended at ten minutes past two o'clock p.m.

Three o'clock p.m.

Business resumed.

7. The Convention proceeded to the consideration of the Report of the Committee on Provincial Constitutions [pages 99-104].

Resolution No. 1 [page 99] put.

Discussion ensued.

On the motion of Mr. Malan,

It was resolved that the further consideration of this resolution stand over.

Resolution No. 2 [page 99] put.

Discussion ensued.

On the motion of Mr. Van Heerden,

It was resolved that the further consideration of this resolution stand over.

Resolution No. 3 [page 99] put.

Mr. Hyslop moved, as an amendment: After "consisting of" to make the remainder of the resolution a sub-section (a), and to add thereafter "or (b) one half of the number of members of the existing Legislative Assembly in the Province."

After discussion,

Mr. Hyslop moved: That the further consideration of this resolution stand over, which was put and negatived.

The amendment proposed by Mr. Hyslop was then put, and the Convention divided:

"AYES," 5.

Greene, Col.
Hyslop, Mr.
Moor, Mr.
Morcom, Mr.
Smythe, Mr.

"NOES," 25.

Beck, Dr.
Botha, Gen.
Browne, Mr.
Burger, Gen.
De la Rey, Gen.
De Villiers, Sir J. H.
De Wet, Gen.
Farrar, Sir G. H.
Fitzpatrick, Sir J. P.
Fischer, Mr.
Hertzog, Gen.
Hull, Mr.
Jagger Mr.
Jameson, Dr.
Lindsay, Mr.
Maasdorp, Mr.
Malan, Mr.
Merriman, Mr.
Sauer, Mr.
Smartt, Dr.
Smuts, Gen.
Stanford, Col.
Steyn, Mr.
Van Heerden, Mr.
Walton, Mr.

The amendment accordingly negatived.

Gen. Smuts moved: To add "provided that in Provinces whose representatives in the House of Assembly shall be less than twenty-five the Provincial Council shall consist of twenty-five members."

Mr. Malan moved: To add "provided that in the case of Natal and the Orange River Colony the said number may be doubled at the option of the existing Parliaments of those Colonies."

This amendment having been put and negatived,

The amendment proposed by General Smuts was put and agreed to.

Motion, as amended, put and agreed to, viz.:—

3. There shall be a Provincial Council in each Province, consisting of the same number of Members as are elected for the House of Assembly in the Province: provided that in Provinces whose representatives in the House of Assembly shall be less than twenty-five the Provincial Council shall consist of twenty-five Members.

Resolution No. 4 [page 99] put.

Gen. Smuts moved: To add "provided that in Provinces whose representatives in the House of Assembly shall be less in number than twenty-five the delimitation of the electoral areas and any necessary re-distribution or adjustment thereof shall be effected by the same Commissions and on the same

principles as are prescribed in regard to the electoral areas for the House of Assembly. The elections shall take place at such times as the Administrator shall by proclamation direct, and the laws applicable to the election of Members of the House of Assembly shall *mutatis mutandis* apply to such elections.

Agreed to.

Resolution, as amended, put and agreed to, viz.:—

4. The Members of the Provincial Council shall be elected by the persons qualified to vote for the election of Members of the House of Assembly in the Province voting in the same electoral areas as are delimited for the election of Members of the House of Assembly and on the same system of proportional representation: provided that in Provinces whose representatives in the House of Assembly shall be less in number than twenty-five the delimitation of the electoral areas and any necessary re-distribution or adjustment thereof shall be effected by the same Commissions and on the same principles as are prescribed in regard to the electoral areas for the House of Assembly. The elections shall take place at such times as the Administrator shall by proclamation direct, and the laws applicable to the election of Members of the House of Assembly shall *mutatis mutandis* apply to such elections.

Resolutions Nos. 5, 6 and 7 [page 100] put and agreed to.

Resolution No. 8 [page 100] put.

Mr. Jagger moved: To omit all the words after "proceedings."

After discussion,

This amendment was put and negatived.

Mr. Merriman moved: After "Provincial Council" to insert "to elect its own chairman and."

Agreed to.

Resolution, as amended, put and agreed to, viz.:—

8. It shall be lawful for every Provincial Council to elect its own Chairman and to make rules for the conduct of its proceedings. Such rules shall be transmitted by the Administrator to the Governor-General, and shall have full force and effect unless and until the Governor-General-in-Council shall express his disapproval thereof by writing addressed to the Administrator.

Mr. Merriman moved, as a new section:

The Provincial Council shall have the power to fix the allowances to be drawn by the Members of such Council subject to the approval of the Governor-General-in-Council.

Mr. Sauer moved, as an amendment:

The Members of Provincial Councils shall receive such allowances as shall be determined by the Governor-General-in-Council.

Agreed to, and the motion proposed by Mr. Merriman accordingly dropped.

Resolution No. 9 [page 100] put.

Mr. Jagger moved, as an amendment: To add "The proceedings of the Provincial Council shall be public, but no Member shall be liable to be impeached or questioned in any Court or place outside such Council for any words uttered therein."

This amendment having been put and negatived,

The resolution as proposed was put and agreed to.

8. On the motion of Mr. Merriman, the Convention adjourned at ten minutes to five o'clock p.m.

CAPE TOWN, *Thursday*, 3RD *December, 1908.*

Ten o'clock a.m.

1. All the Members were present, except Sir William Milton.

2. Consideration of Report of Committee on Provincial Constitutions [pages 99-104] resumed.

The President stated that when this Report was under consideration yesterday, Resolutions Nos. 1 and 2 stood over, and the remainder up to and including No. 9 had been agreed to.

Resolution No. 10 [page 100] put.

Mr. Malan moved, as an amendment: After "persons" to omit "such"; after "such Province" to omit "to assist and advise the Administrator, and with him"; and after "form" to insert "with the Administrator."

Gen. Hertzog moved: To omit "on the system of proportional representation."

Discussion ensued.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

3. Minutes of previous meeting confirmed.

4. Discussion on Resolution No. 10 of Report of Committee on Provincial Constitutions [page 100] continued.

Mr. Fischer moved: To omit "not less than three and not more than."

After discussion,

With leave of the Convention,

This amendment, and the amendment proposed by Gen. Hertzog were withdrawn.

The amendment proposed by Mr. Malan was put and agreed to.

Mr. Sauer moved: After "Executive Committee," where it first occurs, to omit "of" and substitute "for."

Agreed to.

Gen. Smuts moved: To add "Any casual vacancy arising in the Executive Committee of the Province shall likewise be filled by election by the Provincial Council if then in Session, or, if not, then as soon as practicable after the commencement of the next Session."

Dr. Smartt moved, as an amendment to the last amendment: To omit all the words after "or if" and substitute "the Council is not then in Session the Executive Committee may appoint a person as temporary Member until the Council can fill the vacancy."

Agreed to.

Amendment, as amended, put and agreed to.

Resolution, as amended, put and agreed to, viz.:—

10. Each Provincial Council shall at its first meeting after any general election, elect from among its members, or otherwise, on the system of proportional representation not less than three and not more than five persons, as shall be prescribed by the Governor-General-in-Council in respect of such Province, to form with the Administrator an Executive Committee for the Province. Each Executive Committee shall hold office until the election of the next succeeding Executive Committee in the same manner. The members of the Executive Committee shall receive such remuneration as the Provincial Council, with the approval of the Governor-General-in-Council shall determine. A member of the Provincial Council shall not be disqualified from sitting as a member by reason of his having been elected as a member of the Executive Committee. Any casual vacancy arising in the Executive Committee of the Province shall likewise be filled by election by the Provincial Council if then in Session, or if the Council is not then in Session the Executive Committee may appoint a person as temporary member until the Council can fill the vacancy.

Resolution No. 11 [page 100] put.

Dr. Smartt moved: To omit "both a deliberative and," and to add at the end "only."

Gen. Smuts moved: To omit "Provincial"; after "administration" to insert "of Provincial affairs"; and to omit "and shall be jointly responsible for all the administrative acts of the Province."

These amendments put and agreed to.

Gen. Smuts moved: To add "Provided that whenever there is no Executive Committee in existence in any Province the Administrator shall as soon as practicable convene a meeting of the Provincial Council for the purpose of electing an Executive Committee, and until such election the Administrator shall carry on the administration of Provincial affairs."

After discussion,

This amendment was put and agreed to.

Mr. Smythe moved: To add "Three Members of an Executive Committee shall form a quorum."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Mr. Smythe then moved: To add "It shall be lawful for every Executive Committee to make rules for the conduct of its proceedings."

Agreed to.

Resolution, as amended, put and agreed to, viz.:—

11. The Executive Committee shall on behalf of the Council carry on the administration of Provincial affairs. In case of a difference of opinion, the decision shall be according to the opinion of the majority, and the Administrator, as President, shall have a casting vote only. Provided that whenever there is no Executive Committee in existence in any Province the Administrator shall as soon as practicable convene a meeting of the Provincial Council for the purpose of electing an Executive Committee, and until such election the Administrator shall carry on the administration of Provincial affairs. It shall be lawful for every Executive Committee to make rules for the conduct of its proceedings.

Gen. Smuts moved, as a new section:

In regard to matters the administration of which has not been delegated to the Provincial Councils the Administrator shall act on behalf of the Governor-General-in-Council when required to do so, and in such matters he may act without reference to the other Members of the Executive Committee.

Agreed to.

The Convention reverted to Resolution No. 1 [page 99] standing over.

Gen. Smuts moved: To add "The Governor-General-in-Council may from time to time appoint a Deputy Administrator to execute the offices and functions of Administrator during his absence, illness or other inability."

Agreed to.

Resolution, as amended, put and agreed to, viz.:

1. In each Province there shall be a Chief Executive Officer appointed by the Governor-General-in-Council, who shall be styled the Administrator of the Province.

In the appointment of Administrators for any Province the Governor-General-in-Council shall as far as practicable give preference to residents in such Province.

Such Administrators shall hold office for a term of five years, and shall not be removable except for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal if Parliament be then sitting, and if not within one week after the commencement of the next ensuing Session.

The Governor-General-in-Council may from time to time appoint a Deputy-Administrator to execute the offices and functions of Administrator during his absence, illness or other inability.

Resolution No. 2 [page 99] standing over put and agreed to.

*Resolution No. 12 [page 101] put, and, after discussion, it was resolved that the further consideration of this resolution stand over.

The Convention then considered the recommendations of the Committee [pages 101-102] in regard to Resolution No. 13 [pages 86-87 as originally passed].

Gen. Smuts moved, as an unopposed motion: That sub-section (3) be omitted.

Discussion ensued.

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

Mr. Moor moved: That sub-section (3) stand over for further consideration, which was put and negatived.

The omission of the sub-section was then put and agreed to.

The President put the recommendation of the Committee to omit from sub-section (8) "in the opinion of the Governor-General-in-Council."

Gen. Hertzog moved, as an amendment: To add to the sub-section: "Provided that it shall be competent for the Governor-General-in-Council to declare by proclamation that any matter of a local or private nature shall be reserved for legislation by the Union Parliament."

Mr. Hull objected.

The recommendation of the Committee was then put and negatived, and it was resolved to transpose this sub-section to the end of the resolution.

The proposed new sub-section (11) [page 102] put, and the Convention divided:

"AYES," 9.	Burger, Gen.
	De la Rey, Gen.
De Villiers, Sir J. H.	De Wet, Gen.
Farrar, Sir G. H.	Fischer, Mr.
Greene, Col.	Fitzpatrick, Sir J. P.
Hyslop, Mr.	Hertzog, Gen.
Moor, Mr.	Hull, Mr.
Morcom, Mr.	Jagger, Mr.
Smuts, Gen.	Jameson, Dr.
Smythe, Mr.	Lindsay, Mr.
Steyn, Mr.	Maasdorp, Mr.
	Malan, Mr.
	Merriman, Mr.
"NOES," 21.	Sauer, Mr.
	Smartt, Dr.
Beck, Dr.	Stanford, Col.
Botha, Gen.	Van Heerden, Mr.
Browne, Mr.	Walton, Mr.

* See page 218.—G.R.H.

The sub-section accordingly negatived.

The proposed new sub-section (12) [page 102] put.

Discussion ensued.

5. On the motion of Mr. Malan, the Convention adjourned at four o'clock p.m.

CAPE TOWN, *Friday*, 4TH *December, 1908.*

Ten o'clock a.m.

1. All the members were present, except Sir William Milton.

2. Consideration of Report of Committee on Provincial Constitutions [pages 99-104] to be resumed.

The President stated that when the Convention adjourned yesterday, the recommendations of the Committee in regard to Resolution No. 13 [pages 86-87 as originally passed] were under consideration, and the proposed new sub-section (12) [page 102] had been put.

Gen Botha moved, as an amendment: To add "for a period of ten years."

Discussion ensued.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

3. Minutes of previous meeting confirmed.

4. Consideration of recommendations of Committee on Provincial Constitutions in regard to Resolution No. 13 continued.

Mr. Fischer moved: To add "unless and until Parliament shall otherwise decide: provided, however, that Parliament shall not for a period of five years after the taking effect of the Union alter or repeal any law or laws dealing with such education in any Province except with the consent or at the request of the Provincial Council thereof."

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

With leave of the Convention,

The amendments proposed by General Botha and Mr. Fischer were withdrawn.

Gen. Botha then moved: To add "for a period of five years, and thereafter until Parliament otherwise provides."

After discussion,

This amendment was put and agreed to.

Sub-section, as amended, put and agreed to, viz.:—

(12). Education, other than higher education, for a period of five years, and thereafter until Parliament otherwise provides.

Sub-sections (13) and (14) [page 102] put and agreed to.

Mr. Fischer moved: That sub-section (5) be amended by

adding "provided that nothing in this sub-section contained shall be taken to apply to Councils in Native Reserves or Territories."

Sir Percy Fitzpatrick objected.

Resolution No. 13 as amended put and agreed to (see below).

Resolution No. 14 [page 102] put.

Gen. Hertzog moved: To omit "the Provincial Councils shall through"; after "Committees" to insert "of the Provinces shall"; and after "delegated to" to omit "them" and substitute "the Provincial Councils."

Discussion ensued.

Mr. Malan moved: To omit all the words after "Parliament" where it first occurs to the end.

These amendments and the original resolution put and negatived.

Mr. Malan then moved, as an unopposed motion: That the Convention revert to Resolution No. 13, and insert therein as a penultimate sub-section:

Such other subjects in respect of which Parliament shall delegate the power of making ordinances to the Provincial Councils.

Agreed to.

Resolution No. 13, as now amended, put and agreed to, viz.:—

13. Subject to the provisions of this Act the Administrator, with the advice and consent of the Provincial Council, may make ordinances in relation to matters coming within the following classes of subjects, that is to say:—

(1) Direct taxation within the Province in order to the raising of a revenue for Provincial purposes.

(2) The borrowing of money on the sole credit of the Province, with the consent of the Governor-General-in-Council, and in accordance with regulations to be framed by Parliament.

(3) The establishment, maintenance and management of hospitals and charitable institutions.

(4) Municipal institutions, divisional councils, and other local institutions of a similar nature.

(5) Local works and undertakings within the Province other than Railways, Harbours, and such works as extend beyond the borders of the Province and subject to the power of Parliament to declare any work a national work, and to provide for its construction by arrangement with Provincial Councils or otherwise.

(6) The imposition of punishment by fine, penalty or imprisonment for enforcing any law or ordinance of the Province, made in relation to any matter coming within any of the classes of subjects enumerated in this section.

(7) Roads, outspans, ponts and bridges, other than bridges connecting two Provinces.

(8) Markets and pounds.
(9) Education, other than higher education, for a period of five years, and thereafter until Parliament otherwise provides.
(10) Agriculture, to the extent and subject to the conditions to be defined by Parliament.
(11) Fish and game preservation.
(12) Such other subjects in respect of which Parliament shall delegate the power of making ordinances to the Provincial Councils.
(13) Generally all matters which in the opinion of the Governor-General-in-Council are of a merely local or private nature in the Province.

Gen. Smuts moved, in lieu of Resolution No. 14 [page 102]:

14. Subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of public officers, the Provincial Councils shall have power to appoint such officers as may be necessary to carry out the services entrusted to them and to make and enforce regulations for the organization and discipline of such officers.

After discussion,

This motion was put and agreed to.

Resolution No. 15 [page 102] put.

Gen. Smuts moved: To omit "the Union."

Agreed to.

Resolution, as amended, put and agreed to, viz.:—

15. It shall be lawful for any Provincial Council to recommend to Parliament the passing of any law relating to matters not falling within the powers delegated to such Council.

Resolutions Nos. 16, 17* and 18 [pages 102-103] put and agreed to.

Resolution No. 19 [page 103] put.

Mr. Jagger moved, as an amendment:

19. The accounts of each Provincial Council shall be audited annually by one or more persons appointed for that purpose by the Governor-General-in-Council, such accounts together with the report of the Auditors thereon shall be presented to the Governor-General by the respective Administrators, and shall be laid before Parliament and the respective Provincial Councils. The Auditors shall be paid out of the revenues of the Union Government such salaries as Parliament may direct.

Discussion ensued.

On the motion of Mr. Merriman,

The debate was adjourned.

5. On the motion of Mr. Merriman, the Convention adjourned at five minutes to four o'clock p.m.

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* Resolution No. 17 was subsequently amplified by the Finance Committee—see pages 158 and 182-183.—G.R.H.

CAPE TOWN, *Monday*, 7th *December, 1908.*

Ten o'clock a.m.

1. All the members were present, except Sir William Milton and Mr. Coghlan.

2. *Gen. Smuts* moved, as an unopposed motion: That a Committee be appointed to make recommendations in regard to finance and trade for the consideration of the Convention, the Committee to consist of two members from each delegation, to be nominated by the Prime Ministers, and one from Rhodesia.

Agreed to.

The members of the Committee were then nominated, as follows: *Cape of Good Hope*, Mr. Merriman,* Mr. Jagger; *Natal*, Mr. Hyslop, Col. Greene; *Transvaal*, Mr. Hull, Sir George Farrar; *Orange River Colony*, Mr. Fischer, Mr. Browne; *Rhodesia*, Sir Lewis Michell.

3. *Mr. Malan* moved: That the motion proposed by Mr. Merriman on Union Assets and Liabilities [page 21], the debate upon which had been adjourned, be referred to the Committee now appointed, as well as the following notices of motion relating to finance, viz.:—

1. After the establishment of the Union and until otherwise provided by Parliament, there shall be annually paid out of the revenues of the Union to the Administrator of each Province:

   (*a*) An amount equal to the sums expended out of the public funds of the Colony previously constituting such Province in the financial year 1908 to 1909 upon education, other than higher and technical education, and upon all other services in respect of which powers of administration have been of may hereafter be entrusted to the Provincial Council of each Province. The amount of such sums shall be ascertained by the Auditor-General of the Union.

   (*b*) Such further sums as the Parliament shall consider necessary for the services of the provincial administration.

2. All sums directed to be paid to the Administrator for the services of the Provinces, shall be charged and paid out of the revenues of the Union at such times and in such instalments as the Governor-General-in-Council may direct.

Agreed to.

4. *The President* submitted a letter from the Rev. T. Henry Jones, dated Beaconsfield, the 28th ultimo, forwarding an extract from the proceedings of the Diamond Fields Ministers' Association, on the subject of a uniform code of marriage laws for the whole country.

5. *Gen. Botha* moved: That from and after to-day the sittings of the Convention be held in the afternoon from 2

* Mr. Sauer was subsequently appointed as Mr. Merriman's alternate, although the appointment is not recorded.—G.R.H.

to 5 p.m. instead of from 2 to 4 p.m. as heretofore, and that the previous order of the 24th ultimo, regulating the sittings of the Convention, in so far as it relates to afternoon sittings, be rescinded.

Agreed to.

6. Consideration of Report of Committee on Provincial Constitutions [pages 99-104] resumed.

The President stated that when the Convention adjourned on Friday, Resolution No. 19 [page 103] had been put, and the following amendment had been moved by Mr. Jagger:

> 19. The accounts of each Provincial Council shall be audited annually by one or more persons appointed for that purpose by the Governor-General-in-Council, such accounts together with the report of the Auditors thereon shall be presented to the Governor-General by the respective Administrators, and shall be laid before Parliament and the respective Provincial Councils. The Auditors shall be paid out of the revenues of the Union Government such salaries as Parliament may direct.

Mr. Merriman moved: The Governor-General-in-Council shall appoint a fit person to be the Auditor of Accounts in each Province, and such Auditor shall not be removed from office except for cause shewn which shall be communicated in writing to him, and laid before Parliament within seven days if in session or within seven days after its next meeting, and he shall be paid out of the general revenue such salary as the Governor-General-in-Council may, subject to the approval of Parliament, direct. Such Auditor shall examine and audit the accounts of the Province subject to such regulations and orders as may be framed in that behalf by the Governor-General-in-Council, and approved by Parliament, and every warrant conveying the authority for expenditure issued by the Administrator shall be countersigned by the Auditor of the Province.

Mr. Hyslop moved: To omit all the words from "Such Auditor shall" to the end.

After discussion,

The original motion was put and negatived.

With leave of the Convention,

The amendments proposed by Mr. Jagger and Mr. Hyslop were withdrawn.

The amendment proposed by Mr. Merriman was then put as the main question and agreed to.

Resolution No. 20 [page 103] put.

Mr. Hyslop moved: To omit "The Administrator of every Province and"

After discussion,

This amendment was put and negatived.

On the motion of the President,

The word "other" was inserted before "Members."

Resolution, as amended, put and agreed to, viz:—

20. The Administrator of every Province and the other members of every Executive Committee not having a seat in the Provincial Council shall have the right to take part in the debates of the Council, but they shall not be entitled to vote.

Resolution No. 21 [page 103] put and agreed to.

Resolution No. 22 [page 103] put.

Gen. Smuts moved: To omit "be vested in" and substitute "delegated to."

Mr. Jagger moved: After "Administrators" to insert "or the Executive Committees."

Discussion ensued,

Business suspended at eleven o'clock a.m.

Quarter past eleven o'clock a.m.

Business resumed.

7. Minutes of previous meeting confirmed.

8. Discussion on Resolution No. 22 of Report of Committee on Provincial Constitutions continued.

Mr. Merriman moved:

22. Subject to the provisions of this Act all powers duties and functions which at the date of the Union are lawfully vested in or exercised or performed by the Governor or Minister of any Colony shall after the Union, in so far as powers, duties and functions are reserved or delegated to the Provincial Councils, be performed and exercised by the Administrator of the province.

Mr. Malan moved: All administrative acts of the Executive Committee as well as those of the Administrator of every Province, shall be performed in the name of the Administrator.

After discussion,

The amendment proposed by Mr. Merriman was put and agreed to as the main question, and the original motion and the amendments thereon dropped.

Resolution No. 23 [page 103] put.

Mr. Walton moved: To omit "on the petition of the Provincial Council of any Province," and to omit "such" where it occurs and substitute "any."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Mr. Walton then moved: That the further consideration of this Resolution stand over until to-morrow.

Agreed to.

The President stated that the consideration of Resolution No. 12, on provincial capitals, stood over until the question of the capital of the Union had been disposed of, and that the final recommendation of the Committee on revenue and expenditure had already been dealt with this morning by the appointment of the Finance Committee.

9. *Col. Stanford* moved: Until Parliament shall otherwise decide, the general control and administration of Native affairs throughout South Africa shall vest in the Governor-General-in-Council who shall also exercise all special powers in regard to native administration hitherto vested in Governors of States and corresponding with or substituted for the prerogatives of paramount Chief over and in respect of any independent native tribe. Included among the special powers referred to in this section shall be deemed and taken to be:

The powers as Supreme Chief, of the Governor of Natal;

The powers of the Governor of the Transvaal in succession to the State President, as Paramount Chief over all Chiefs and Natives under Law No. 4 of 1885;

The powers of the Governor of the Cape Colony in regard to the proclamation of laws in the Transkeian Territories declared by Act No. 29 of 1897.

The powers of control by the Governor of the Cape Colony over the Glen Grey District Council, the Transkeian Territories General and District Councils and similar Native bodies.

And all such similar and special powers in regard to Native administration as shall fall within the true intent and meaning of the section:

Provided that the Governor-General-in-Council may delegate to any Provincial Council or to the Administrator such powers as he may deem advisable for the local administration of native affairs within such Province: and provided further that the powers now exercised by Divisional and Municipal Councils, and by Village Management Boards over the natives within their areas, shall continue undisturbed.

After discussion,

On the motion of Gen. Smuts,

The debate was adjourned *sine die*.

10. On the motion of Mr. Merriman, the Convention adjourned at a quarter to one o'clock p.m.

CAPE TOWN, *Tuesday*, 8TH *December, 1908.*

Ten o'clock a.m.

1. All the members were present, except Sir William Milton and Mr. Coghlan.

2. *The President*, as Chairman, brought up the Report of the Committee, appointed by resolution of the Convention dated the 5th ultimo, [page 70] to consider and report upon certain proposals of the President in regard to the Administration of Justice, as follows:—

Your Committee have considered the proposals* submitted by the President in lieu of those on pages 62-63, of which he had previously given notice and have agreed to the following resolutions:

* No record of these proposals is available.—G.R.H.

1. There shall be a Supreme Court of South Africa consisting of a Chief Justice of South Africa, the ordinary Judges of Appeal, and the Chief Justices and Judges of the several Supreme Courts of the provinces, including the High Court of the Orange province.
2. There shall be an Appellate Division of the Supreme Court of South Africa consisting of the Chief Justice of South Africa, two ordinary Judges of Appeal and two additional Judges of Appeal. Such additional Judges of Appeal shall from time to time be temporarily assigned by the Governor-General-in-Council to the Appellate Division, but shall continue to perform their duties as Judges of their respective Courts when their attendance is not required in the Appellate Division.
3. It shall be lawful for the Governor-General-in-Council during the absence, illness or other incapacity of the Chief Justice of South Africa or of any ordinary Judge of Appeal to appoint a Judge of a Supreme or High Court of any Province to act temporarily as such Chief Justice or ordinary Judge of Appeal.
4. The several Supreme Courts of the Cape of Good Hope, Natal and the Transvaal and the High Court of the Orange Province shall on the establishment of the Union become divisions of the Supreme Court of South Africa, and shall in addition to any original jurisdiction exercised by them at the date of Union have jurisdiction within the limits of their respective Provinces in all matters:—

i. In which the Government of the Union, or a person suing or being sued on behalf of such Government, is a party.
ii. In which the validity of any Provincial Ordinance shall come into question.
iii. Affecting the validity of elections of Members of the Union Parliament and of the Provincial Councils, provided that on the trial of any election petition the laws in force relating to Parliamentary election petitions at the time of the Union in the Province within which such petition shall be tried, shall *mutatis mutandis* apply.

5. The Chief Justice and all other Judges of the Supreme Court of South Africa to be appointed after the Union shall be so appointed by the Governor-General-in-Council and they shall hold office during good behaviour. They shall receive such remuneration as Parliament shall fix, but the remuneration shall not be diminished during their continuance in office. Judges and Advocates of the Supreme and High Courts of the Provinces shall be eligible to be so appointed.
6. Upon any vacancy occurring in any Superior Court other than the Appellate Division, it shall be lawful for the Governor-General-in-Council, in case he shall

consider that the number of Judges of such Court may with advantage to the public interests be reduced, to postpone the filling of the vacancy until Parliament shall have determined whether such reduction shall take place.

7. In lieu of any appeal in any case, civil or criminal, which at the date of Union may be made to the Supreme or High Court of any Colony from the Eastern Districts Court, High Court of Griqualand, Witwatersrand High Court, High Court of Southern Rhodesia, or any single Judge Court the appeal shall be made to the said Appellate Division.

8. In lieu of any appeal in any case, civil or criminal, which at the date of Union may be made from the Supreme, or High Court of any Colony to the King-in-Council the appeal shall be made to the Appellate Division, provided that there shall be no limit as to the amount which should be claimed or awarded in any civil suit to enable a judgment in such suit to be appealed against.

9. Except by special leave of the Appellate Division there shall be no appeal thereto against any judgment in any civil or criminal suit given by any Superior Provincial Court on appeal from a Resident Magistrate or other inferior Court.

10. There shall be no appeal from the Appellate Division or from any Provincial Court to the King-in-Council, but nothing herein contained shall be construed to impair any right which the King-in-Council may be pleased to exercise to grant special leave to appeal from the Appellate Division to the King-in-Council. The Parliament may make laws limiting the matters in respect of which such special leave may be asked, but proposed laws containing any such limitation shall be reserved by the Governor-General for His Majesty's pleasure.

11. It shall be lawful for the Chief Justice of South Africa and the ordinary Judges of Appeal to make rules for the conduct of the proceedings of the Appellate Division and such rules shall be subject to the approval of the Governor-General-in-Council and until such rules shall have been promulgated the rules in force in the Supreme Court of the Cape of Good Hope shall *mutatis mutandis* apply.

12. It shall be lawful for the Chief Justice and other Judges of the Supreme Court of any Province including the High Court of the Orange Province to frame rules for the conduct of its proceedings, and such rules shall be subject to the approval of the Governor-General-in-Council after consultation with the Chief Justice of South Africa. Until such rules shall have been pro-

mulgated for any such Court the rules in force therein at the Union shall continue to apply.

13. The Supreme Court of South Africa shall sit in ..... but may from time to time for the convenience of suiters hold its sittings at other places within the Union.

14. On the hearing of appeals from a Court consisting of two or more Judges five Judges of the Appellate Division shall form a quorum, but on the hearing of appeals from Courts consisting of a single Judge three Judges of the Appellate Division shall form a quorum. No Judge shall take part in the hearing of any appeal against the judgment given in a case heard before him.

15. The process of the Appellate Division shall run throughout the Union, and all its judgments or orders shall have full force and effect in every Province, and shall be executed in such manner as any original judgments or orders of the Provincial Superior Courts might have been executed.

16. The Registrar of every Provincial Superior Court if thereto requested by any party in whose favour any judgment or order has been given or made by any other Provincial Superior Court, shall, upon the deposit with him of an authenticated copy of such judgment or order, and on proof that the same remains unsatisfied, issue a writ or other process for the execution of such judgment or order, and thereupon such writ or other process shall be executed in like manner as if it had been originally issued from the Court of which he is Registrar.

17. It shall be lawful for any Provincial Superior Court to which it may be made to appear that any civil suit depending therein may be more conveniently or fitly heard or determined in another Provincial Superior Court to order the same to be removed to such other Court, and thereupon it shall be lawful for such last-mentioned Court to proceed with such suit in like manner as if it had been originally commenced in such last-mentioned Court.

18. It shall be lawful for the Governor-General-in-Council to appoint a Registrar of the Appellate Division and such other officers thereof as shall, in the opinion of the Chief Justice of South Africa, be required for the proper dispatch of the business of the said Division.

19. All Advocates and Attorneys of the Superior Courts of the Provinces shall respectively be entitled to practise as such in the Appellate Division.

20. The administration of justice throughout the Union shall be under the control of a Minister of Justice, in whom shall be vested all powers, functions and authorities, which shall, at the time of the establishment of the Union, be vested in the Attorney-Generals

of the different Colonies, save and except the duty of prosecuting for crime and offences, which shall continue to be performed by the Attorney-General of each Province, who, if not already a permanent officer, shall be entitled to remain in office until a permanent Attorney-General shall have been appointed for such province by the Governor-General-in-Council.

3. Consideration of Resolution No. 23 of Report of Committee on Provincial Constitutions [page 103] resumed.

The President stated that when this Resolution was under consideration yesterday, an amendment had been moved by Mr. Walton [page 116], which he had subsequently withdrawn.

Mr. Walton then moved: The Parliament of the Union may, at the request of at least fifteen members of a Provincial Council, divide such Province into two or more Provinces within the area of such Province, but may not otherwise alter or amend the boundaries of any Province except on the petition of the Provincial Council of such Province.

After discussion,

The original motion was put and agreed to, viz.: The Parliament of the Union may on the petition of the Provincial Council of any Province alter or amend the boundaries of such Province or may divide such Province into two or more Provinces.

The amendment accordingly dropped.

4. Report of Committee on Administration of Justice [pages 117-121] to be considered.

Resolutions No. 1 and No. 2 [page 118] put and agreed to.

Resolution No. 3 [page 118] put.

Mr. Fischer moved: To omit "a Judge of a Supreme Court or High Court of any Province" and substitute "any Judge of the Supreme Court of South Africa."

Agreed to.

Resolution, as amended, put and agreed to, viz:

3. It shall be lawful for the Governor-General-in-Council during the absence, illness or other incapacity of the Chief Justice of South Africa or of any ordinary Judge of Appeal to appoint any Judge of the Supreme Court of South Africa to act temporarily as such Chief Justice or ordinary Judge of Appeal.

Resolution No. 4 [page 118] put.

Mr. Merriman moved: In sub-section (iii) to omit "in force" and to insert those words after "petitions"; and to omit "such petition shall be tried" and substitute "the election shall have taken place."

Mr. Fischer moved: To add at the end "unless and until Parliament shall otherwise provide."

These amendments put and agreed to.

Business suspended at eleven o'clock a.m.

Quarter past eleven o'clock a.m.

Business resumed.

5. Minutes of previous meeting confirmed.

6. Consideration of Report of Committee on Administration of Justice continued.

Resolution No. 4, as amended, put and agreed to, viz.:

4. The several Supreme Courts of the Cape of Good Hope, Natal and the Transvaal and the High Court of the Orange Province shall on the establishment of the Union become divisions of the Supreme Court of South Africa, and shall in addition to any original jurisdiction exercised by them at the date of Union have jurisdiction within the limits of their respective Provinces in all matters:—

i. In which the Government of the Union, or a person suing or being sued on behalf of such Government, is a party.

ii. In which the validity of any Provincial Ordinance shall come into question.

iii. Affecting the validity of elections of Members of the Union Parliament and of the Provincial Councils, provided that on the trial of any election petition the laws relating to Parliamentary election petitions in force at the time of the Union in the Province within which the election shall have taken place shall *mutatis mutandis* apply, unless and until Parliament shall otherwise provide.

Resolution No. 5 [page 118] put.

Gen. Smuts moved: To omit the words "Judges and."

After discussion,

This amendment was put and agreed to.

Resolution, as amended, put and agreed to, viz.:

5. The Chief Justice and all other Judges of the Supreme Court of South Africa to be appointed after the Union shall be so appointed by the Governor-General-in-Council, and they shall hold office during good behaviour. They shall receive such remuneration as Parliament shall fix, but the remuneration shall not be diminished during their continuance in office. Advocates of the Supreme and High Courts of the Provinces shall be eligible to be so appointed.

Resolution No. 6 [page 118] put.

Mr. Fischer moved: To omit "Superior Court" and substitute "division of the Supreme Court of South Africa."

Agreed to.

Resolution, as amended, put and agreed to, viz.:—

6. Upon any vacancy occurring in any division of the Supreme Court of South Africa other than the Appellate Division, it shall be lawful for the Governor-General-in-Council, in case he shall consider that the number of Judges of such Court may with advantage to the public

interests be reduced, to postpone the filling of the vacancy until Parliament shall have determined whether such reduction shall take place.

Resolutions Nos. 7, 8 and 9 [page 119] put and agreed to.

Resolution No. 10 [page 119] put.

Dr. Smartt moved: To omit all the words from "the Parliament" to the end.

Discussion ensued.

Mr. Jagger moved: That the further consideration of this resolution stand over.

Agreed to.

Resolutions Nos. 11, 12, 13, 14, 15, 16, 17, 18, and 19 [pages 119-120] put and agreed to.

Resolution No. 20 [page 120] put.

Mr. Steyn moved: To omit "a Minister of Justice" and substitute "one of the Ministers of State."

Agreed to.

Resolution, as amended, put and agreed to, viz.:

20. The Administration of Justice throughout the Union shall be under the control of one of the Ministers of State, in whom shall be vested all powers, functions and authorities, which shall, at the time of the establishment of the Union be vested in the Attorney-Generals of the different Colonies, save and except the duty of prosecuting for crime and offences, which shall continue to be performed by the Attorney-General of each Province, who, if not already a permanent officer, shall be entitled to remain in office until a permanent Attorney-General shall have been appointed for such Province by the Governor-General-in-Council.

The Convention reverted to Resolution No. 10 [page 119], standing over.

The amendment proposed by Dr. Smartt [printed above] put and negatived.

The resolution was then put and agreed to.

7. On the motion of Mr. Hull, the Convention adjourned at a quarter to one o'clock p.m.

CAPE TOWN, *Wednesday*, 9TH *December*, *1908*.

Ten o'clock a.m.

1. All the members were present, except Sir William Milton and Mr. Coghlan.

2. *The President* moved, as an unopposed motion: All Judges of the Supreme Courts of the Colonies as existing before Union, including the High Court of the Orange River Colony shall thereafter become Judges of the Supreme Court of South Africa, and shall retain all such rights in regard to salaries and pensions as they may enjoy at the time of the establishment of the Union.

Agreed to.

3. *Gen. Botha* moved: That it is desirable for the Convention to settle the capital of the Union.

Discussion ensued.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

4. Minutes of previous meeting confirmed.

5. Debate on motion on Union Capital continued.

After discussion,

The motion was put and agreed to.

6. *Mr. Fischer* moved: That a Committee consisting of the President and one member from each Colony, to be nominated by the respective Prime Ministers, be appointed to report as to the procedure to be followed by the Convention in deciding as to the capital of the Union; and that the report of the Committee be considered after the resolutions on which the Constitution is to be based shall have been settled.

Sir Percy Fitzpatrick moved, as an amendment: To omit all the words after "the Union."

After discussion,

This amendment was put, and the Convention divided:

"AYES," 12.	"NOES," 18.
Botha, Gen.	Beck, Dr.
Burger, Gen.	Browne, Mr.
De la Rey, Gen.	De Villiers, Sir J. H.
Farrar, Sir G. H.	De Wet, Gen.
Fitzpatrick, Sir J. P.	Fischer, Mr.
Greene, Col.	Hertzog, Gen.
Hull, Mr.	Jagger, Mr.
Hyslop, Mr.	Jameson, Dr.
Lindsay, Mr.	Maasdorp, Mr.
Moor, Mr.	Malan, Mr.
Morcom, Mr.	Merriman, Mr.
Smythe, Mr.	Sauer, Mr.
	Smartt, Dr.
	Smuts, Gen.
	Stanford, Col.
	Steyn, Mr.
	Van Heerden, Mr.
	Walton, Mr.

The amendment accordingly negatived.

On the motion of Col. Greene,

The debate was adjourned until to-morrow.

7. On the motion of Col. Greene, the Convention adjourned at one o'clock p.m. until to-morrow at two o'clock p.m.

CAPE TOWN, *Thursday*, 10TH *December, 1908.*

Two o'clock p.m.

1. All the members were present, except Sir William Milton and Mr. Coghlan.

2. Minutes of previous meeting confirmed.

3. *Gen. Smuts* moved, as an unopposed motion: That the question of the taking over of the Protectorates and native affairs generally, including the motion by Col. Stanford on native control and administration [page 117], be referred to a Committee consisting of the President, the Prime Ministers and Sir Lewis Michell.

Mr. Fischer moved, as an amendment: That Col. Stanford be a member of the Committee.

Agreed to.

Motion, as amended, put and agreed to.

4. *Gen. Smuts* moved, as an unopposed motion: That a Committee be appointed to frame resolutions for submission to the Convention on the following subjects: Civil Service, New Provinces, Alterations of the Constitution, and such other subjects as the Committee may consider it desirable to deal with; such Committee to consist of two members appointed by each Prime Minister and one appointed by Sir Lewis Michell.

Agreed to.

The Committee was then nominated, as follows, viz.:— *Cape of Good Hope*, Mr. Merriman, Dr. Jameson; *Natal*, Mr. Morcom, Mr. Smythe; *Transvaal*, Gen. Smuts, Sir Percy Fitzpatrick; *Orange River Colony*, Mr. Steyn, Gen. Hertzog, and *Rhodesia*, Sir Lewis Michell.

5. *Mr. Hyslop* moved, as an unopposed motion: That the Finance Committee be requested to consider what financial relief should be given to the capitals of the Colonies in which the Union capital is not situated.

Agreed to.

6. *Mr. Sauer* moved, as an unopposed motion: That the question of the salaries to be paid to Ministers be referred to the Finance Committee.

After discussion,

The motion was put and negatived.

7. *The President* moved, as an unopposed motion: That the question of the salary and allowances of the Governor-General be referred to the Finance Committee.

Agreed to.

8. Adjourned debate on motion by Mr. Fischer for committee on procedure on selection of Union capital [page 124] resumed.

The President stated that when this debate was adjourned yesterday, the question before the Convention was: That a Committee consisting of the President and one member from each Colony, to be nominated by the respective Prime Ministers, be appointed to report as to the procedure to be fol-

lowed by the Convention in deciding as to the capital of the Union: and that the report of the Committee be considered after the resolutions on which the Constitution is to be based shall have been settled.

After discussion,

With leave of the Convention,

The words after "the Union" were withdrawn.

Gen. Hertzog moved: That in lieu of the Prime Ministers, the Committee consist of one member to be nominated by each Prime Minister.

After discussion,

With leave of the Convention,

This amendment was withdrawn.

The motion, as amended, was then put and agreed to.

The following members were then nominated, to serve with the President, viz.: *Cape of Good Hope*, Mr. Sauer; *Natal*, Mr. Hyslop; *Transvaal*, Gen. Botha; and *Orange River Colony*, Gen. Hertzog.

9. On the motion of Sir George Farrar, the Convention adjourned at twenty minutes past three o'clock until Monday, the 14th instant, at ten o'clock a.m., in order to enable the several committees to proceed with their work.

CAPE TOWN, *Monday*, 14th *December, 1908.*

Ten o'clock a.m.

1. All the members were present, except Sir William Milton and Mr. Coghlan.

2. Minutes of previous meeting confirmed.

3. *The President* read and put in a letter, dated the 7th instant, from the Town Clerk, Mafeking, setting forth the advantages attaching to that place as a site for the Union capital.

4. *Mr. Steyn*, as Chairman, brought up the report of the committee appointed by resolution of the Convention dated the 10th December, 1908, [page 125] on Civil Service and miscellaneous matters, as follows:—

Your Committee have considered the subjects referred to them, and have agreed upon the following resolutions:—

The Union.

1. It shall be lawful for the King, with the advice of the Privy Council, to declare by proclamation that, on and after a day therein appointed, not being later than one year after the passing of the Constitution Act, the Colonies of the Cape of Good Hope, Natal, and the Transvaal and the Orange River Colony shall be united in a Legislative Union under one Government under the name of South Africa, and on and after that date the said Colonies shall be so united.

But the King may, at any time after the Proclamation, appoint a Governor-General for the Union.

2. The provisions of the Constitution Act shall, unless it is otherwise expressed or implied, take effect on and after the day so appointed.

Civil Service.

3. (i) All officers of the Public Service of the several Colonies shall, at the establishment of the Union, become officers of the Union. As soon as possible after the passing of the Act of Union the Governor-General-in-Council shall appoint a Civil Service Commission, consisting of not more than three persons, to make recommendations for such re-organisation and readjustment of the departments of the Public Service existing in the several Colonies as may be necessary. They shall also make recommendations in regard to the transfer to each Province of such officers as may be necessary for the proper fulfilment of the services assigned to it.

(ii) After the establishment of the Union, and subject to the provisions to be made by Parliament in that behalf, there shall be a permanent Civil Service Commission, the members of which shall be appointed from time to time by the Governor-General-in-Council, to carry out all laws and regulations governing the appointment, retirement and superannuation of public officers, and in particular to make recommendations for the appointment of persons to public offices and for the retirement of public officers consequent upon abolition of office or re-organisation of departments.

(iii) Any officer of the Public Service of the several Colonies who is not retained in the service of the Union or of a Province shall be entitled to receive such pension, gratuity or other compensation as he would have received in like circumstances if the Union had not been established.

(iv) Any officer of the Public Service of the several Colonies who is retained in the service of the Union or of a Province shall preserve all his existing and accruing rights, and shall be entitled to retire from office at the time and on the pension or retiring allowance which would have been permitted to him by law in like circumstances if the Union had not been established.

(v) The services of no such officer shall be dispensed with by reason solely of his want of knowledge of either the English or Dutch language.

New Provinces.

*4. It shall be lawful for the Parliament to admit to the Union or to establish new Provinces or Territories and to make or agree to such terms and conditions, including the

* Referred to Committee on Native Affairs.—see page 132.—G.R.H.

extent of representation in either House of Parliament, as it thinks fit.

Treaty Rights.

*5. All treaty rights and obligations which, at the establishment of the Union, are binding on any Colony shall be assumed by the Union.

Amendment of Constitution.

†6. The Parliament may by law repeal or alter any of the provisions of the Constitution Act, provided that no repeal or alteration of any of the provisions affecting the subject matters specified in Schedule . . . . . shall be valid unless the terms of the proposed repeal or alteration shall have been embodied in resolutions passed by both Houses of Parliament, sitting together, for which not less than two-thirds of the total number of members of both Houses have voted.

(Mr. Morcom proposed that any repeal or alteration of the provisions of the Constitution Act should be passed by an absolute majority of members of both Houses of Parliament, but this proposal was negatived; the Committee, however, undertook to bring this point to the notice of the Convention in the event of Mr. Morcom not being present when the report of the Committee comes up for discussion.)

Schedule of Matters Reserved.

(Resolution No. 6.)

1. Native Franchise in the Cape Colony.
2. Basis of representation.
3. The Language Question.

On the motion of Mr. Steyn,

Resolved: That the report be considered to-morrow.

5. *Mr. Smythe* moved, as an unopposed motion: That the Convention at its rising on Saturday adjourn until Monday, the 11th January.

After discussion,

On the motion of Mr. Hyslop,

The debate was adjourned until Wednesday.

6. On the motion of Mr. Sauer,

The following alternates were appointed on the Committee on the Union Capital, viz.: Mr. Maasdorp for Mr. Sauer and Col. Greene for Mr. Hyslop.

7. On the motion of Mr. Sauer, the Convention adjourned at twenty minutes to eleven o'clock a.m., in order to enable the several committees to proceed with their work.

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* Referred to Committee on Finance—see page 131.

† Referred back to Committee—see page 133.—G.R.H.

CAPE TOWN, *Tuesday* 15TH *December*, 1908.

Ten o'clock a.m.

1. All the members were present, except Sir William Milton and Mr. Coghlan.

2. Report of committee on Civil Service and miscellaneous matters considered.

The President stated that the report would be found on pages 126-128.

Resolution No. 1 [page 126] put.

Gen. Smuts moved, as an amendment:

1. It shall be lawful for the King, with the advice of the Privy Council, to declare by Proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, any two or more of the Colonies of the Cape of Good Hope, Natal, the Transvaal and the Orange River Colony which shall before the passing of this Act or thereafter before the date of such Proclamation, have agreed thereto by resolutions of their respective Houses of Parliament shall be united in a legislative union under one Government under the name of South Africa; and on and after the day appointed by such Proclamation the Government and Legislature of the Union shall have full power and effect within the Colonies which shall have so agreed. But the King may, at any time after the Proclamation, appoint a Governor-General for the Union.

After discussion,

The amendment was put as the main question and agreed to.

Resolution No. 2 [page 127] put.

Gen. Smuts moved: In line 1 to omit "the Constitution," and substitute "this."

Agreed to.

Resolution, as amended, put and agreed to, viz.:—

2. The provisions of this Act shall, unless it is otherwise expressed or implied, take effect on and after the day so appointed.

Resolution No. 3 sub-section (i) [page 127] put.

Mr. Hyslop moved: After "consisting of not" to omit "more," and substitute "less."

Mr. Walton moved: To omit "consisting of not more than three persons."

After discussion,

This amendment was put and agreed to, and the amendment proposed by Mr. Hyslop dropped.

Sub-section, as amended, put and agreed to, viz.:—

(i) All officers of the Public Service of the several Colonies shall, at the establishment of the Union, become officers of the Union. As soon as possible after the passing of the Act of Union the Governor-General-in-Council shall appoint a Civil Service Commission to make recommendations for such

reorganisation and re-adjustment of the Departments of the Public Service existing in the several Colonies as may be necessary. They shall also make recommendations in regard to the transfer to each Province of such officers as may be necessary for the proper fulfilment of the services assigned to it.

Sub-section (ii) [page 127] put.

Mr. Walton moved: To omit "Governor-General-in-Council," and substitute "Parliament"; and after "public offices" to insert "whether of the Union or of the Provinces."

Discussion ensued.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

3. Minutes of previous meeting confirmed.

4. Discussion resumed on sub-section (ii) of Resolution No. 3 of Committee on Civil Service.

With leave of the Convention,

The amendments proposed by Mr. Walton were withdrawn.

*Sub-section, as moved, put and agreed to.

Mr. Walton moved: That the following be a new sub-section:—

(iii) If the Governor-General-in-Council or the Executive Committee of a Province, as the case may be, shall act otherwise than on the recommendation of the Commission they shall state in writing their reason for such action, and such statement shall be laid before Parliament within fourteen days of the taking of such action if Parliament shall be then in session, and if not then within fourteen days of the commencement of the next ensuing session of Parliament.

After discussion,

The sub-section was put, and the Convention divided:

"AYES," 9.	
Farrar, Sir G. H.	De la Rey, Gen.
Fitzpatrick, Sir J. P.	De Villiers, Sir J. H.
Jagger, Mr.	De Wet, Gen.
Jameson, Dr.	Fischer, Mr.
Lindsay, Mr.	Greene, Col.
Moor, Mr.	Hertzog, Gen.
Smythe, Mr.	Hull, Mr.
Stanford, Col.	Maasdorp, Mr.
Walton, Mr.	Malan, Mr.
	Merriman, Mr.
"NOES," 20.	Morcom, Mr.
Beck, Dr.	Sauer, Mr.
Botha, Gen.	Smartt, Dr.
Browne, Mr.	Smuts, Gen.
Burger, Gen.	Steyn, Mr.
	Van Heerden, Mr.

* * Subsequently reverted to and amended.—See pages 131 and 132.—G.R.H.

The sub-section accordingly negatived.

Mr. Merriman moved, as an unopposed motion:

That the Convention revert to sub-section (ii).

Agreed to.

Mr. Merriman then moved: To omit all the words after "superannuation of public officers."

Gen Smuts moved: After "public officers" to insert "in such Departments and grades of the Public Service as Parliament may define"; after "appointment of" to omit "persons to public offices" and substitute "such officers," and to omit "public" before "officers" where it next occurs, and substitute "such."

Mr. Malan moved: To omit all the words after "Union" to "behalf," and after "Commission" to omit all the words to the end and substitute "with such powers and duties relating to the appointment, retirement and superannuation of public officers as Parliament shall determine."

On the motion of Col. Greene,

The debate was adjourned until to-morrow.

Mr. Hyslop moved, as an unopposed motion: That the Resolution No. 5 of the Committee's Report on Treaty Rights [page 128] be referred to the Committee on Finance.

After discussion,

This motion was put and agreed to.

6. On the motion of Mr. Malan, the Convention adjourned at one o'clock p.m.

CAPE TOWN, *Wednesday*, 16TH *December, 1908.*

Ten o'clock a.m.

1. All the members were present, except Sir William Milton and Mr. Coghlan.

2. *The President* read a letter from His Honour the Administrator of Southern Rhodesia, acknowledging receipt of the first copy of the proceedings of the Convention held in Cape Town, and intimating that these and the copies of subsequent proceedings would be carefully regarded as confidential.

3. Consideration of Report of Committee on Civil Service and miscellaneous matters resumed.

The President stated that when this debate was adjourned yesterday the report [pages 126-128] was under consideration, and sub-section (ii) of Resolution No. 3, on the Civil Service, having been agreed to, the Convention had again reverted to it, and the following amendments had been moved:

By Mr. Merriman: To omit all the words after "superannuation of public officers."

By Gen. Smuts: After "public officers" to insert "in such Departments and grades of the Public Service as Parliament may define"; after "appointment of" to omit "persons to public offices" and substitute "such officers"; and to omit

"public" before "officers" where it next occurs and substitute "such."

By Mr. Malan: To omit all the words after "Union" to "behalf," and after "Commission" to omit all the words to the end, and substitute "with such powers and duties relating to the appointment, retirement and superannuation of public officers as Parliament shall determine."

Mr. Lindsay moved: After "Commission" to insert "to be appointed by the Governor-General-in-Council."

Gen. Smuts moved: After "appointment" to insert "discipline."

These last amendments and that proposed by Mr. Malan put and agreed to, and the previous amendment proposed by Gen. Smuts and the amendment by Mr. Merriman accordingly dropped.

Sub-section, as amended, put and agreed to, viz.:—

(ii) After the establishment of the Union there shall be a permanent Civil Service Commission, to be appointed by the Governor-General-in-Council, with such powers and duties relating to the appointment, discipline, retirement and superannuation of public officers as Parliament shall determine.

Sub-section (iii) [page 127] put, and after discussion agreed to.

Sub-section (iv) [page 127] put.

Mr. Fischer moved: To omit the words "and accruing."

After discussion,

This amendment was put and negatived.

Sub-section, as moved, put and agreed to.

Sub-section (v) [page 127] put.

Dr. Smartt moved: To omit "solely."

Agreed to.

Sub-section, as amended, put and agreed to, viz.:—

(v) The services of no such officer shall be dispensed with by reason of his want of knowledge of either the English or Dutch language.

Col. Greene moved: That the following be a new sub-section:

(vi) Permanent officers of the Parliaments of the different Colonies who are not retained in the service of the Union or of any Province, and for whom no provision shall have been made by their respective legislatures, shall be entitled to such pensions, gratuities or compensation as the Parliament of the Union may determine.

Agreed to.

Resolution No. 4, on new Provinces [page 127] put.

Discussion ensued.

Mr. Sauer moved: That this resolution be referred to the Committee on Native Affairs.

Agreed to.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

4. Minutes of previous meeting confirmed.

5. *The President*, referring to the fact that this was Dingaan's Day, stated that although in a large part of South Africa the anniversary of this day had for years been celebrated as a public holiday, and would probably before long be so kept throughout the country, he had not proposed that the Convention should suspend its labours, conceiving that as representatives of European civilisation in South Africa the delegates could not be better employed than by continuing the important work entrusted to them.

6. Consideration of report of Committee on Civil Service and miscellaneous matters continued.

The President stated that Resolution No. 5 [page 128] on Treaty Rights, had been referred to the Committee on Finance.

Resolution No. 6 [page 128], on amendment of Constitution, put.

Mr. Morcom moved: After "law" to insert "passed by an absolute majority of members of each House of Parliament."

Discussion ensued.

Mr. Fischer moved: To omit all the words down to "resolutions passed" and substitute "Parliament may by law repeal or alter any of the provisions of the Constitution Act, provided that no Bill dealing with the repeal or alteration of any of the provisions affecting the subject matters in Schedule . . . . shall be valid unless after the same shall have been passed by both Houses of Parliament it shall be approved in its entirety by a resolution."

Mr. Lindsay moved: That the original resolution and the amendments thereon be referred back to the Committee for further consideration.

After discussion,

The last amendment was put and agreed to.

7. *Mr. Jagger* moved: Every Senator and every Member of the House of Assembly shall, before taking his seat, make and subscribe before the Governor-General or some person authorised by him an oath or affirmation of allegiance in the form set forth in the Schedule to this Act.

Schedule.

I, A.B., do swear that I will be faithful and bear true allegiance to His Majesty King Edward VII., his heirs and successors according to law. So help me God.

After discussion,

The motion was put and agreed to.

8. *Mr. Moor* moved: That provision be made in the Constitution for extending the franchise to women of European descent.

Discussion ensued.

On the motion of Mr. Sauer,

The debate was adjourned until to-morrow.

9. Adjourned debate on motion on adjournment of Convention from Saturday until Monday, the 11th January [page 128] resumed.

The President stated that when this debate was adjourned on the 14th instant, the question before the Convention was a motion by Mr. Smythe: That the Convention at its rising on Saturday adjourn until Monday, the 11th January.

Debate resumed.

On the motion of Mr. Sauer,

The debate was adjourned until to-morrow.

10. *The President* read a congratulatory telegram from the Grand Secretary of the Masonic Hall, Jeppe Street, Johannesburg.

11. On the motion of Mr. Steyn, the Convention adjourned at five minutes past one o'clock p.m.

CAPE TOWN, *Thursday*, 17th *December, 1908.*

Ten o'clock a.m.

1. All the members were present, except Sir William Milton, Mr. Morcom and Mr. Coghlan.

2. *The President*, as Chairman, brought up the report of the Committee appointed by resolution of the Convention dated the 10th December, 1908 [page 125] on Native Affairs, as follows:—

Your Committee having carefully considered the questions referred to them beg to report:—

Firstly, in regard to the Protectorates, they recommend the adoption of the following resolutions, with the understanding that they should be provisional and be subject to modification after the views of His Majesty's Government thereon have been definitely ascertained.

The Protectorates.

It shall be lawful for His Majesty, with the advice of the Privy Council, on addresses from the Houses of the Union Parliament, to transfer the Government of any territory under the protectorate of His Majesty, inhabited wholly or in part by natives, to the Union, and upon such transfer it shall be lawful for the Governor-General-in-Council to undertake the Government of such territory upon terms and conditions embodied in the Schedule to this Act.

Schedule.

(1). After the transfer of the Government of any territory known as a protectorate, the Governor-General-in-Council shall be the legislative authority, and may by proclamation make laws for the good government of such territory: provided that all such laws shall be laid before both Houses of Parliament within seven days after the issuing of the procla-

mation, or if Parliament be not then sitting within seven days after the beginning of the next session, and shall be effectual unless both Houses of Parliament shall by resolution request the Governor-General-in-Council to repeal the same, in which case they shall be so repealed by resolution.

(2). The Prime Minister shall be charged with the administration of any territory thus transferred, and he shall be assisted in such administration by a Commission consisting of not fewer than three members with a Secretary to be appointed by the Governor-General-in-Council, whose duty it shall be to carry out the recommendations of the Commission after they shall have been approved by the Prime Minister.

(3) The members of the Commission shall be appointed by the Governor-General-in-Council and shall be entitled to hold office for a period of ten years, but such period may be extended to successive further terms of five years. They shall each be entitled to a fixed annual salary which shall not be reduced during the continuance of their term of office, and they shall not be removed from office except upon addresses from both Houses of Parliament. They shall not be eligible to become members of either House of Parliament. One of the members of the Commission shall be appointed by the Governor-General-in-Council as Chairman thereof. In case of the absence, illness or other incapacity of any member of the Commission, the Governor-General-in-Council may appoint some other fit and proper person to act during such absence, illness or other incapacity.

(4). It shall be the duty of the members of the Commission to advise the Prime Minister upon all matters relating to the administration of, or the legislation for, the said territories. The Prime Minister or another Minister of State as his deputy, or failing them the Vice-Chairman, shall preside at all meetings of the Commission, and in case of an equality of votes, shall have a casting vote. Two members of the Commission shall, with the Prime Minister or his deputy, form a quorum. In case the Commission shall consist of four or more members, three of them shall form a quorum.

(5). Any member of the Commission who dissents from the decision of a majority shall be entitled to have the reasons for his dissent recorded in the minutes of the Commission.

(6). The Commissioners shall have access to all official papers concerning the Protectorates, and they may deliberate on any matter relating thereto and tender their advice thereon to the Prime Minister.

(7). Before coming to a decision on any matter relating either to the administration, other than routine, or of legislation for the said territories, the Prime Minister shall cause the papers relating to such matters to be deposited with the Secretary to the Commission, and shall convene a meeting of the Commission for the purpose of obtaining its opinion on such matter.

(8). Where it appears to the Prime Minister that the dispatch of any communication or the making of any order is urgently required, the communication may be sent or order made, although it has not been submitted to a meeting of the Commission, or deposited for the perusal of the members thereof.

In any such case the Prime Minister shall record the urgent reasons for sending the communication or making the order, and give notice thereof to every member of the Commission.

(9). If the Prime Minister does not accept a recommendation of the Commission or proposes to take some action contrary to their advice, he shall state his views to the Commission, who shall be at liberty to place on record the reasons in support of their recommendation or advice. This record shall be laid by the Prime Minister before the Governor-General-in-Council, whose decision in the matter shall be final, and effect shall be given to that decision by the Secretary.

(10). When the recommendations of the Commission have not been accepted by the Governor-General-in-Council or action not in accordance with their advice has been taken by the Governor-General-in-Council, the Prime Minister, if thereto requested by the Commission, shall lay the record of their dissent from the decision or action taken, and of the reasons therefor before both Houses of Parliament, unless in any case the Governor-General-in-Council shall be of opinion that the publication of such record and reasons would be gravely detrimental to the public interest.

(11). The Governor-General-in-Council shall appoint a Resident Commissioner for each Protectorate who shall in addition to such other duties as shall be conferred on him by the Governor-General-in-Council prepare the annual estimates of revenue and expenditure for such Protectorate and forward the same to the Prime Minister. After such estimates have been submitted to the Commission, and approved of by the Prime Minister, the Resident Commissioner shall, subject to regulations to be framed in that behalf by the Governor-General-in-Council, act in accordance with such estimates.

(12). The Treasurer of the Union shall pay annually to the Resident Commissioner for each Protectorate a sum in respect of customs dues on dutiable articles imported into and consumed in such Protectorate which shall bear to the total customs revenue of the Union in respect of each financial year the same proportion as the average of the customs revenue for the three complete financial years last preceding the taking effect of this Act bore to the average of the whole customs revenue for all the Colonies and territories included in the Union received during the same period.

(13). In case the revenue of any Protectorate for any financial year shall be insufficient to meet the expenditure, the deficiency shall be made good by the Government of the Union. In case there shall be a surplus for any Protec-

torate it shall be lawful for the Resident Commissioner, with the consent of the Governor-General to lend any part of such surplus to another Protectorate, or to repay to the Union Treasury any deficiency previously made good by the Union Government.

(14). It shall not be lawful to alienate any land in Basutoland or any land forming part of the native reserve in Bechuanaland Protectorate and Swaziland from the native tribes inhabiting the territories.

(15). The sale of liquor to natives shall be prohibited in the said territories.

(16). The custom, where it exists, of holding pitsos or other recognised form of native assembly shall be maintained in the said territories.

(17). No special duties or imposts on the produce of the Protectorates shall be levied by the Union Parliament. The laws of the Union relating to customs and excise shall be made to apply to the Protectorates.

(18). There shall be free intercourse for the white and black inhabitants of the Protectorates with the rest of South Africa subject to the ordinary laws, including the pass laws of the Union.

(19). All revenues derived from any Protectorate shall be expended for and on behalf of such Protectorate.

(20). The King may disallow any law made by the Governor-General-in-Council by proclamation for any Protectorate within one year from the date of the proclamation, and such disallowance, on being made known by the Governor-General by proclamation shall annul the law from the day when the disallowance is so made known.

(21). The members of the Commission shall be entitled to such pensions or superannuation allowances as the Governor-General-in-Council shall by proclamation provide, and the salaries, pensions and other expenses of such members shall be borne by the different Protectorates in the proportions of their respective revenues.

(22). The rights of civil servants employed in the Protectorates as existing at the present time (December 16th, 1908) shall remain in force.

(23). In lieu of any appeal which may by law be made to the King-in-Council from any Court of the Protectorates, such appeal shall be made to the Appellate Division of the Supreme Court of South Africa.

(24). The Governor-General-in-Council shall prepare an annual report on the Protectorates, and lay the same before both Houses of the Union Parliament.

Secondly, in regard to Colonel Stanford's proposals, the Committee would recommend the adoption of the following:

The control and administration of Native Affairs throughout South Africa shall vest in the Governor-General-in-Council, who shall also exercise all special powers in regard to native administration hitherto vested in Governors of States,

and corresponding with or substituted for the prerogatives of Paramount Chief over and in respect of any independent native tribe.

Thirdly, in regard to the provision relating to the taking over of other territories than the Protectorates, your Committee would recommend the adoption of the following resolution:

It shall be lawful for the King, by and with the advice of the Privy Council, on addresses from the Houses of Parliament of the Union, to admit into the Union Colonies or other territories not originally included in such Union, on such terms and conditions in each case as are in the addresses expressed and approved by the King; and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

Resolved: That this report be considered after the business on the paper has been disposed of.

3. Adjourned debate on motion on adjournment of Convention from Saturday until Monday, the 11th January [page 128] to be resumed,

The President stated that when this debate was adjourned yesterday the question before the Convention was a motion by Mr. Smythe: That the Convention at its rising on Saturday adjourn until Monday, the 11th January.

Debate resumed.

Col. Greene moved, as an amendment: That the Convention at its rising to-morrow adjourn until Monday, the 11th January, in Cape Town, at 10 o'clock a.m.

Gen. De Wet moved: To omit "To-morrow" and substitute "to-day."

After discussion,

The amendment proposed by Col. Greene was put and agreed to as the main question, and the original motion and the amendment proposed by Gen. De Wet accordingly dropped.

4. The President, as Chairman, brought up an Interim Report of the Committee appointed by resolutions of the Convention dated the 10th and 14th December, 1908 [pages 125-126 and 128] to report as to the procedure to be followed by the Convention in deciding as to the capital of the Union, as follows:—

> The Committee have experienced very considerable difficulty in arriving at a decision, and as one of their members has now left for the recess they consider that it would not be advisable to vote upon the Capital before the adjournment. The Committee, therefore, recommend that they should be authorised during the recess to continue their labours and to report immediately after the adjournment. In the meanwhile they would suggest that the [illegible] Ministers should during the interval seek to come [illegible] agreement between themselves as

to the site of the Capital, or failing such arrangement as to the mode in which the decision thereon should be arrived at.

The President proposed to move, as an unopposed motion: That the Capital of the Union shall be at such place as an impartial Commission of three men not being residents in South Africa appointed by His Majesty the King shall, after full examination of the claims of the different Colonies, and of the merits of the different Colonies, fix and determine.

Gen De la Rey objected.

Mr. Steyn then moved: That the consideration of the report stand over until after the adjournment.

After discussion,

This motion was put and agreed to.

5. *Mr. Sauer*, as Chairman, brought up the First Report* of the Committee appointed by resolution of the Convention dated the 7th December, 1908, [page 114] to make recommendations in regard to Finance and Trade, as follows:—

Your Committee having considered the question of Finance and Trade generally, as well as the following matters specially referred to them, viz.:—

(1) Motions and notices by Mr. Merriman [pages 21 and 114].

(2) Financial relief to Capitals of Colonies in which Union capital not situated [page 125].

(3) Salary and allowances to be paid to Governor-General [page 125].

(4) Treaty Rights and obligations [page 131].

beg to recommend the following:—

1. All revenues, from whatever source arising, over which the several Colonies have at the establishment of the Union power of appropriation shall vest in the Governor-General-in-Council. There shall be formed a Railway and Harbour Fund into which shall be paid all revenues raised or received by the Governor-General-in-Council from the administration of the Railways, Ports and Harbours, and such fund shall be appropriated by Parliament to the purposes of the Railways, Ports and Harbours in the manner prescribed by this Act. There shall also be formed a Consolidated Revenue Fund into which shall be paid all other revenues raised or received by the Governor-General-in-Council, and such fund shall be appropriated by Parliament for the purposes of the Union in the manner prescribed by this Act, and subject to the charges imposed thereby.

2. The Governor-General-in-Council shall, as soon as may be after the establishment of the Union, appoint a Commission, consisting of one representative from each Province, and presided over by an officer from the Imperial Service, to

* This report was subsequently referred back to the Committee—see page —.H.

institute an inquiry into the financial relations which should exist between the Union and the Provinces. Pending the completion of that inquiry, and until Parliament otherwise provides, there shall be paid annually out of the revenues of the Union to the Administrator of each Province:

(*a*) an amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year 1908-09 as voted by the Parliaments of the respective Colonies during the year 1908;

(*b*) such further sums as the Governor-General-in-Council may consider necessary for the due performance of the services and duties assigned to the Provinces respectively.

Until such inquiry shall be completed the Executive Committees in the several Provinces shall frame annually estimates of their expenditure for the approval of the Governor-General-in-Council, and no expenditure shall be incurred by any Executive Committee which is not provided for in such approved estimates.

3. The Consolidated Revenue Fund shall be permanently charged with the costs, charges and expenses incident to the collection, management and receipt thereof, and the same shall form the first charge thereon.

4. The annual interest of the public debts of the several Colonies and any sinking funds constituted by law at the establishment of the Union shall form the second charge on the Consolidated Revenue Fund.

5. Subject to the several payments by this Act charged on the Consolidated Revenue Fund, the same shall be appropriated by Parliament for the Public Service.

6. No money shall be drawn from the Consolidated Revenue Fund or the Railway and Harbour Fund, except under appropriation made by law. But until the expiration of two months after the first meeting of Parliament, the Governor-General-in-Council may draw therefrom and expend such moneys as may be necessary for the public service, and for railway and harbour administration respectively.

7. All stocks, cash, bankers' balances, and securities for money belonging to each Colony at the establishment of the Union shall be the property of the Union.

8. Crown lands, public works, and all property throughout the Union, movable or immovable, belonging to the several Colonies at the establishment of the Union, and all rights in connection therewith shall vest in the Governor-General-in-Council, subject to any debt or liability specifically charged thereon.

9. All rights in and to mines and minerals and all rights in connection with the searching for, working for or disposing of minerals or precious stones which at the date of the establishment of the Union are vested in the Government of any of the Colonies shall, on the establishment of the Union, vest in the Governor-General-in-Council.

10. The Union shall assume all debts and liabilities of the several Colonies existing at the establishment of the Union, subject to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and may convert, renew or consolidate such debts.

11. All ports, harbours and lighthouses, and all railways belonging to the several Colonies at the establishment of the Union shall from the date of the establishment vest in the Governor-General-in-Council. No railway, port, harbour, lighthouse or similar work shall be constructed without the sanction of Parliament.

12. Subject to the authority of the Governor-General-in-Council, the control and management of the Railways, Ports and Harbours of the Union shall be exercised through a Board of Commissioners, consisting of a Minister of State, who shall be Chairman, and three other members.

13. The railways, ports and harbours of the Union shall, saving the rights of creditors, be administered on business principles, due regard being had to agricultural and industrial development within the Union and the promotion, by means of cheap transport, of the settlement of an agricultural or industrial population in the inland portions of the Union.

So far as may be, the total earnings shall be not more than are sufficient to meet the necessary outlays for working, maintenance, betterment, depreciation and the payment of interest due on capital invested therein, not being capital contributed out of Railway or Harbour revenue, and not being interest on any capital which Parliament may provide in accordance with the provisions of the next succeeding resolution. The amount of such interest shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund.

Provision may be made for establishing a reasonable fund for maintaining uniformity of rates in case of fluctuation of traffic.

Provided that it shall be lawful for the Governor-General-in-Council to give effect to the provisions of this resolution, as and when the necessary administrative and financial arrangements can be made during a period of not more than four years. At the end of that period the said provisions shall have full force and effect.

14. If Parliament shall require the construction of any port or harbour works or any line of railway the earnings of which will in the opinion of the Board be insufficient to meet the charges for working expenses, maintenance, betterment and depreciation, and to provide for payment of interest on the capital invested in such construction, provision shall be made annually by Parliament for payment to the Board out of the Consolidated Revenue Fund or otherwise of a sum sufficient to make up any deficiency actually incurred.

15. If Parliament or the Governor-General-in-Council shall require the Railway and Harbour Board to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities the Commissioners shall at the end of each financial year frame an account showing the amount of expenditure incurred in respect of such services or facilities in excess of the revenue, if any, received in respect thereof, and such amount shall be paid over from the Consolidated Revenue Fund to the Railway and Harbour Fund.

16. That the Governor-General be paid a salary of £10,000 per annum.

Mr. Sauer moved: That the report be considered after the business now on the paper has been disposed of.

Agreed to.

6. *Gen. Smuts* (for Mr. Steyn) brought up the Second Report of the Committee appointed by resolution of the Convention, dated the 10th December, 1908 [page 125] on Civil Service and miscellaneous matters, as follows:—

The Committee, having had under consideration Resolution No. 6 of their First Report on Amendment of Constitution [page 128], referred back to them [page 133], recommend that this resolution should read as follows:

6. Subject to the terms and restrictions of this Act, Parliament may by law repeal or alter any of the provisions thereof, provided that no repeal or alteration of any of the provisions affecting the subject matters specified in Schedule ..... shall be valid unless the proposed repeal or alteration shall have been passed by both Houses of Parliament, sitting together, for which not less than two-thirds of the total number of members of both Houses have voted.

Schedule of Matters Reserved.

(Resolution No. 6.)

1. Native Franchise in Cape Colony.
2. Basis of Representation.
3. The Language Question.
4. Amendment of the Constitution.

Gen. Smuts moved: That the report be considered after the business now on the paper has been disposed of.

Agreed to.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

7. Minutes of previous meeting confirmed.

8. Adjourned debate on motion by Mr. Moor on grant of franchise to women [page 133] resumed.

The President stated that when this debate was adjourned yesterday, the question before the Convention was: That provision be made in the Constitution for extending the franchise to women of European descent.

Gen. Smuts moved: That it be an instruction to any drafting Committee that may be appointed to make it clear that Parliament shall have the power by a bare majority to confer the franchise on women of European descent.

Col. Stanford moved, as an amendment to the last amendment: To omit the words "of European descent."

After discussion,

On the motion of Mr. Malan,

The debate was adjourned until Monday, the 11th January.

9. The Convention proceeded to the consideration of the report of the Committee on Native Affairs [pages 134-138].

Resolution No. 1 relating to the Protectorates [page 134] put.

Discussion ensued.

On the motion of Gen. Smuts,

The debate was adjourned until to-morrow.

10. On the motion of Gen. Smuts, the Convention adjourned at five minutes to one o'clock p.m.

CAPE TOWN, *Friday*, 18TH *December, 1908.*

Ten o'clock a.m.

1. All the members were present, except Sir William Milton, Mr. Morcom, Mr. Coghlan, and Gen. De Wet.

2. *Gen. Smuts* moved: That a Committee be appointed for the purpose of preparing a Draft Bill embodying the resolutions already passed by the Convention, with power to frame amendments in the wording of the resolutions and where necessary in particular cases to suggest amendments of the substance of the resolutions for the consideration of the Convention, all new matter and alterations of the resolutions to be indicated in red ink; the Committee to consist of the President, one from each delegation, to be nominated by the Prime Ministers, and one from Rhodesia, with power to the Committee to obtain the assistance of persons not being members of the Committee.

After discussion,

The motion was put and agreed to.

The Committee was then nominated as follows, viz.: *Cape of Good Hope*, Mr. Merriman; *Natal*, Col. Greene; *Transvaal*, Gen. Smuts; *Orange River Colony*, Gen. Hertzog, and *Rhodesia*, Sir Lewis Michell.

3. *The President* moved:

(1) When a proposed law passed by both Houses of Parliament is presented to the Governor-General for the King's assent, he shall declare, according to his discretion, but subject to the provisions of this Act, that he assents in the King's name, or that he withholds assent, or that he reserves the proposed law for the signification of the King's pleasure.

The Governor-General may return to the House in which it originated any proposed law so presented to him and may transmit therewith any amendments which he may recommend, and the Houses may deal with the recommendation.

(2) The King may disallow any law within one year from the Governor-General's assent, and such disallowance on being made known by the Governor-General by speech or message to each of the Houses of Parliament, or by Proclamation, shall annul the law from the day when the disallowance is so made known.

(3) A proposed law reserved for the King's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the King's assent the Governor-General makes known by speech or message to each of the Houses of Parliament, or by Proclamation, that it has received the King's assent.

Agreed to.

4. Consideration of Report of Committee on Native Affairs [pages 134-138] resumed.

The President stated that when this debate was adjourned yesterday the first resolution, relating to the Protectorates [page 134] had been put.

Debate resumed.

Business suspended at eleven o'clock a.m.

Twenty minutes to twelve o'clock a.m.

Business resumed.

5. Minutes of previous meeting confirmed.

6. Debate on first Resolution of Report of Committee on Native Affairs continued.

Col. Greene moved: To omit the words "with the advice of the Privy Council"; and also to omit the words "embodied in the Schedule to this Act," and substitute "to be mutually agreed upon."

Sir Percy Fitzpatrick moved: To add at the end "or as amended from time to time by the Parliament of the Union, provided that any amendment of the terms and conditions in the Schedule shall be subject to reservation for the signification of the King's pleasure."

Discussion ensued.

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

7. *The President* read a letter from the Secretary of the Cape Town and District Evangelical Church Council, dated the 18th instant, expressing their satisfaction at the appointment of the Convention and their hopes that its labours would be crowned with success.

8. Debate on First Resolution of Report of Committee on Native Affairs [page 134] continued.

After discussion,

The first amendment proposed by Col. Greene [page 144] was put and negatived.

The second amendment proposed by Col. Greene [page 144] to omit the words "embodied in the Schedule to this Act," and substitute "to be mutually agreed upon" put, and the Convention divided:

"AYES"—7.	Farrar, Sir G. H.
	Fischer, Mr.
Burger, Gen.	Fitzpatrick, Sir J. P.
De la Rey, Gen.	Hertzog, Gen.
Greene, Col.	Hull, Mr.
Hyslop, Mr.	Jagger, Mr.
Moor, Mr.	Jameson, Dr.
Smartt, Dr.	Lindsay, Mr.
Smythe, Mr.	Maasdorp, Mr.
	Malan, Mr.
	Merriman, Mr.
"NOES"—21.	Sauer, Mr.
	Smuts, Gen.
Beck, Dr.	Stanford, Col.
Botha, Gen.	Steyn, Mr.
Browne, Mr.	Van Heerden, Mr.
De Villiers, Sir J. H.	Walton, Mr.

The amendment accordingly negatived.

With leave of the Convention,

The amendment proposed by Sir Percy Fitzpatrick was withdrawn.

Mr. Fischer moved: After "territory" to insert "of or."

Agreed to.

Resolution, as amended, put and agreed to, viz.:—

It shall be lawful for His Majesty, with the advice of the Privy Council, on addresses from the Houses of the Union Parliament, to transfer the Government of any territory of or under the protectorate of His Majesty, inhabited wholly or in part by natives, to the Union, and upon such transfer it shall be lawful for the Governor-General-in-Council to undertake the Government of such territory upon terms and conditions embodied in the Schedule to this Act.

The Convention then proceeded to the consideration of the Schedule.

Sub-section (1) [page 134] put.

Gen. Smuts moved: After "unless" to insert "and until."

After discussion,

This amendment was put and negatived.

The President moved: To omit "known as a Protectorate" and substitute "of or under the protectorate of His Majesty"; and to omit the last word "resolution" and substitute "proclamation."

Agreed to.

Sub-section, as amended, put and agreed to, viz.:—

(1) After the transfer of the Government of any territory of or under the protectorate of His Majesty, the Governor-General-in-Council shall be the legislative authority, and may by Proclamation make laws for the good government of such territory: provided that all such laws shall be laid before both Houses of Parliament within seven days after the issuing of the Proclamation or, if Parliament be not then sitting, within seven days after the beginning of the next session, and shall be effectual unless both Houses of Parliament shall by resolution request the Governor-General-in-Council to repeal the same, in which case they shall be so repealed by Proclamation.

Sub-section (2) [page 135] put.

Gen. Smuts moved: To omit "assisted" and substitute "advised"; and to omit all the words after "Council."

Agreed to.

Sub-section, as amended, put and agreed to, viz.:—

(2) The Prime Minister shall be charged with the administration of any territory thus transferred, and he shall be advised in such administration by a Commission consisting of not fewer than three members with a secretary, to be appointed by the Governor-General-in-Council.

Sub-section (3) [page 135] put.

Col. Greene moved: To omit "ten" years and substitute "five."

This amendment having been put and negatived,

Sub-section, as moved, with the correction of "Vice-Chairman" for "Chairman," inserted in error, put and agreed to.

Sub-sections (4) and (5) [page 135] put and agreed to.

Sub-section (6) [page 135] put.

The President moved: To omit "Commissioners" and substitute "members of the Commission"; and to omit "Protectorates" and substitute "Territories."

Agreed to.

Sub-section, as amended, put and agreed to, viz.:

(6) The members of the Commission shall have access to all official papers concerning the Territories, and they may deliberate on any matter relating thereto and tender their advice thereon to the Prime Minister.

Sub-sections (7) and (8) [pages 135-136] put and agreed to.

Sub-section (9) [page 136] put.

Gen. Smuts moved: To omit all the words after "final."

Agreed to.

Sub-section, as amended, put and agreed to, viz.:—

(9). If the Prime Minister does not accept a recommendation of the Commission or proposes to take some action contrary to their advice, he shall state his views to the Commission, who shall be at liberty to place on record the reasons in support of their recommendation or advice. This record shall be laid by the Prime Minister before the Governor-

General-in-Council, whose decision in the matter shall be final.

Sub-section (10) [page 136] put and agreed to.

Sub-section (11) [page 136] put.

Gen. Smuts moved: After "approved of" to insert "or amended."

Agreed to.

Sub-section, as amended, and with the substitution of "Territory" for "Protectorate" where it occurs, put and agreed to, viz.:—

(11) The Governor-General-in-Council shall appoint a Resident Commissioner for each Territory, who shall in addition to such other duties as shall be conferred on him by the Governor-General-in-Council prepare the annual estimates of revenue and expenditure for such Territory and forward the same to the Prime Minister. After such estimates have been submitted to the Commission and approved of or amended by the Prime Minister the Resident Commissioner shall, subject to regulations to be framed in that behalf by the Governor-General-in-Council, act in accordance with such estimates.

Sub-section (12) [page 136] put.

Gen. Smuts moved: To omit "to the Resident Commissioner for each Protectorate," and substitute "towards the cost of administration of each Territory"; and to omit "Protectorate" after "such" and substitute "Territory."

Agreed to.

Sub-section, as amended, put, and the Convention divided:

"AYES," 21.	
	Sauer, Mr.
	Smartt, Dr.
Beck, Dr.	Smuts, Gen.
Botha, Gen.	Stanford, Col.
Browne, Mr.	Steyn, Mr.
Burger, Gen.	Van Heerden, Mr.
De Villiers, Sir J. H.	Walton, Mr.
Farrar, Sir G. H.	
Fischer, Mr.	
Hull, Mr.	"NOES," 5.
Jagger, Mr.	
Jameson, Dr.	De la Rey, Gen.
Lindsay, Mr.	Greene, Col.
Maasdorp, Mr.	Hyslop, Mr.
Malan, Mr.	Moor, Mr.
Merriman, Mr.	Smythe, Mr.

Sub-section, as amended, accordingly agreed to, viz.:—

(12) The Treasurer of the Union shall pay annually towards the cost of administration of each Territory a sum in respect of customs dues on dutiable articles imported into and consumed in such Territory which shall bear to the total customs revenue of the Union in respect of each financial year the same proportion as the average of the customs revenue for

the three complete financial years last preceding the taking effect of this Act bore to the average of the whole customs revenue for all the Colonies and Territories included in the Union received during the same period.

Sub-section (13) [page 136] put.

Col. Stanford moved: After "Governor-General" to insert "-in-Council"; and to omit "Protectorate" and substitute "Territory."

Mr. Malan moved: To omit "made good" and substitute "advanced."

These amendments put and agreed to.

Gen. Smuts moved: To omit "the Resident Commissioner with the consent of."

Agreed to.

Mr. Fischer moved: To omit all the words from "In case" to the end, and substitute:

"In case there shall be a surplus for any Territory such surplus shall, in the first instance, be devoted to repayment of any sums previously advanced by the Union Government to cover any deficiency in such Territory, and thereafter it shall be lawful for the Governor-General-in-Council to lend the whole or any part of such surplus to another such Territory."

Agreed to.

Sub-section, as amended, put, and the Convention divided

"AYES," 20.	
	Smartt, Dr.
	Smuts, Gen.
Beck, Dr.	Stanford, Col.
Botha, Gen.	Van Heerden, Mr.
Browne, Mr.	Walton, Mr.
De Villiers, Sir J. H.	
Farrar, Sir G. H.	
Fischer, Mr.	"NOES," 7.
Hertzog, Gen.	
Hull, Mr.	Burger, Gen.
Jagger, Mr.	De la Rey, Gen.
Jameson Dr.	Greene, Col.
Lindsay, Mr.	Hyslop, Mr.
Maasdorp, Mr.	Moor, Mr.
Malan, Mr.	Smythe, Mr.
Merriman, Mr.	Steyn, Mr.
Sauer, Mr.	

Sub-section, as amended, accordingly agreed to, viz.:

(13) In case the revenue of any Territory for any financial year shall be insufficient to meet the expenditure the deficiency shall be advanced by the Government of the Union. In case there shall be a surplus for any Territory such surplus shall in the first instance be devoted to repayment of any sums previously advanced by the Union Government to cover any deficiency in such Territory, and thereafter it shall be lawful for the Governor-General-in-Council to lend the

whole or any part of such surplus to another such Territory.

Sub-section (14) [page 137] put.

Dr. Smartt moved: After "alienate" to insert "save for public purpose and in payment of full and adequate compensation."

This amendment having been put and negatived,

The sub-section was put and agreed to, with the correction of "reserves" for "reserve."

Sub-sections (15) and (16) [page 137] put and agreed to.

Sub-section (17) [page 137] put, with the correction of "Territories" for "Protectorates."

Gen. Smuts moved: To omit the first sentence.

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Gen. Smuts then moved: To omit "by the Union Parliament."

Mr. Fischer moved: To omit "special" and substitute "differential."

These amendments put and agreed to.

Sub-section, as amended, put and agreed to, viz.:—

(17) No differential duties or imposts on the produce of the Territories shall be levied. The laws of the Union relating to customs and excise shall be made to apply to the Territories.

Sub-section 18 [page 137] put, with the correction of "Territories" for "Protectorates."

Gen. Hertzog moved: To omit "ordinary."

Agreed to.

Sub-section, as amended, put and agreed to, viz.:—

(18) There shall be free intercourse for the black and white inhabitants of the Territories with the rest of South Africa, subject to the laws, including the Pass Laws, of the Union.

Sub-section (19) [page 137] put, with the correction of "Territory" for "Protectorate."

Gen. Smuts moved: To insert at the beginning "Subject to the provisions of this Schedule."

Agreed to.

Sub-section, as amended, put and agreed to, viz.:—

(19) Subject to the provisions of this Schedule, all revenues derived from any Territory shall be expended for and on behalf of such Territory.

Sub-section (20) [page 137] put and agreed to, with the correction of "Territory" for "Protectorate."

Sub-section (21) [page 137] put, with the correction of "Territories" for "Protectorates."

Mr. Hyslop moved: After "salaries" to insert "and"; and to omit "and other expenses of such members" and substitute "of such members and all other expenses of the Commission."

Agreed to.

Sub-section, as amended, put and agreed to, viz.:—

(21) The members of the Commission shall be entitled to such pensions or superannuation allowances as the Governor-General-in-Council shall by Proclamation provide, and the salaries and pensions of such members and all other expenses of the Commission shall be borne by the different Territories in the proportion of their respective revenues.

Sub-section (22) [page 137] put and agreed to, with the correction of "Territories" for "Protectorates."

Sub-section (23) [page 137], with the same correction, put.

Gen. Smuts moved: After "shall" to insert "subject to the provisions of this Act."

Agreed to.

Sub-section, as amended, put and agreed to, viz.:—

(23) In lieu of any appeal which may by law be made to the King-in-Council from any Court of the Territories such appeal shall, subject to the provisions of this Act, be made to the Appellate Division of the Supreme Court of South Africa.

Sub-section (24) [page 137] put and agreed to, with the correction of "Territories" for "Protectorates."

The President moved: That the following be a new sub-section, viz.:—

(25) All proposed laws to amend or alter the provisions of this Schedule shall be reserved for the signification of His Majesty's pleasure.

Agreed to.

The second and third proposals of the Committee [pages 137-138] put and agreed to.

9. On the motion of Mr. Moor,

Resolved: That Members be allowed to remove the resolutions agreed to, but only members of the drafting committee be allowed to remove the Minutes of Proceedings.

10. On the motion of Mr. Merriman, the Convention adjourned at five minutes past five o'clock p.m. until Monday, the 11th January, at ten o'clock a.m.

CAPE TOWN, *Monday*, 11th *January, 1909.*

Ten o'clock a.m.

1. All the members were present, except Sir William Milton.

2. *Mr. Moor* put in a credential appointing Mr. Watt to be a delegate for Natal.

The President read the credential, as follows:—

The following delegate has been appointed to represent the Colony of Natal in the Convention, *vice* Mr. W. B. Morcom, resigned:—

The Hon. T. Watt, C.M.G., M.L.A.

(Sgd.) F. R. Moor,

Prime Minister.

Cape Town, 11th January, 1909.

3. *The President* read and put in a petition from 1,770 natives resident in the Transvaal, praying for the consideration of their claims to be granted representation in the Parliament of a united South Africa.

4. *The President*, as Chairman, stated that the Committee on the Draft Constitution Bill had practically completed their labours last week, and that a draft Bill had been duly prepared, but it was subsequently considered advisable to make a number of verbal alterations in it, for which purpose the Committee would meet to-day, and he expected to lay the Bill before the Convention to-morrow.

5. *The President* intimated that His Worship the Mayor of Cape Town (Mr. F. W. Smith) had requested him to ascertain whether members would accept an invitation to visit the Drakenstein Valley on Saturday.

After discussion, it was resolved that the Convention regret that the necessity of proceeding with the work still remaining to be done prevents members from accepting the proposed hospitality of the Mayor.

6. On the motion of Mr. Smythe, Col. Greene was appointed to resume as a member of the Finance Committee in lieu of the mover, who had been temporarily acting for him.

7. Adjourned debate on motion by Mr. Moor on grant of franchise to women [page 133] resumed.

The President stated that when this debate was adjourned on the 17th December, the question before the Convention was a motion by Mr. Moor: That provision be made in the Constitution for extending the franchise to women of European descent.

Upon which an amendment had been moved by Gen. Smuts: That it be an instruction to any Drafting Committee that may be appointed to make it clear that Parliament shall have the power by a bare majority to confer the franchise on women of European descent.

Upon which amendment an amendment had been moved by Col. Stanford: To omit the words "of European descent."

Debate resumed.

With leave of the Convention,

The original motion was withdrawn in favour of the amendment by Gen. Smuts.

Sir Percy Fitzpatrick moved: That the debate be adjourned until after the Drafting Committee has brought up a preliminary report.

Agreed to.

8. *Mr. Sauer* moved: That the Second Order of the day—First Report of Committee on Finance to be considered—be discharged and set down for to-morrow.

Agreed to.

9. *Gen. Smuts* moved: That the Third and Fourth Orders of the day—Second Report of Committee on Civil Service, etc. (Amendment of Constitution), to be considered and In-

terim Report of Committee on Union Capital, to be considered —be discharged.

Agreed to.

10. *Gen. Smuts* moved: That the Fifth Order of the day—Consideration of Resolution No. 12 of Report of Provincial Constitutions Committee to be resumed—be postponed *sine die.*

Agreed to.

11. On the motion of Col. Greene,

Mr. Watt was appointed a member of the Drafting Committee in lieu of the mover.

12. On the motion of Mr. Merriman, the Convention adjourned at ten minutes to eleven o'clock a.m.

CAPE TOWN, *Tuesday,* 12th *January, 1909.*

Ten o'clock a.m.

1. All the members were present, except Sir William Milton.

2. Minutes of the 18th December and of yesterday confirmed.

3. *The President,* as Chairman of the Committee on the Draft South Africa Act, submitted a draft Act.*

4. *Mr. Sauer* moved: That the First Order of the day—First Report of Committee on Finance, to be considered—be discharged, and the report referred back to the Committee for further consideration.

Agreed to.

5. Adjourned debate on motion by Mr. Moor on grant of franchise to women [page 133] resumed.

The President stated that when this debate was adjourned yesterday, the question before the Convention was an amendment by Gen. Smuts to a motion which had been moved by Mr. Moor, subsequently withdrawn in favour of the amendment, which thus became the original motion, viz.:

That it be an instruction to any Drafting Committee that may be appointed to make it clear that Parliament shall have the power by a bare majority to confer the franchise on women of European descent.

Upon which an amendment had been moved by Col. Stanford: To omit the words "of European descent."

Debate resumed.

After discussion,

With leave of the Convention,

The amendment and the original motion were withdrawn.

6. *Mr. Fischer* moved: Any resolution of the Convention may be reconsidered for the purpose of amending or rescinding the same on a motion to that effect being carried by a two-thirds majority of the Convention, such motion to be put forthwith without amendment or debate.

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* See Appendix E., pages 282–311.—G.R.H.

Mr. Malan moved, as an amendment: That in the consideration of the draft South Africa Act any amendments of the resolutions already passed may be moved in the ordinary way.

After discussion,

The amendment was put, and the Convention divided:

"AYES," 16.	"NOES," 14.
De Villiers, Sir J. H.	Beck, Dr.
Farrar, Sir G. H.	Botha, Gen.
Greene, Col.	Browne, Mr.
Hertzog, Gen.	Burger, Gen.
Hull, Mr.	De la Rey, Gen.
Hyslop, Mr.	De Wet, Gen.
Jagger, Mr.	Fischer, Mr.
Maasdorp, Mr.	Fitzpatrick, Sir J. P.
Malan, Mr.	Jameson, Dr.
Moor, Mr.	Lindsay, Mr.
Smuts, Gen.	Merriman, Mr.
Smythe, Mr.	Sauer, Mr.
Stanford, Col.	Smartt, Dr.
Van Heerden, Mr.	Steyn, Mr.
Walton, Mr.	
Watt, Mr.	

The amendment accordingly agreed to, and the original motion consequently dropped.

7. *Gen. Botha* moved: That the draft South Africa Act be considered to-morrow.

Agreed to.

8. On the motion of Mr. Jagger, the Convention adjourned at a quarter to eleven o'clock a.m.

CAPE TOWN *Wednesday*, 13TH *January, 1909.*

Ten o'clock a.m.

1. All the members were present, except Sir William Milton.

2. Draft South Africa Act, to be considered.

The President stated that the draft of this Act* was submitted yesterday, and

The Convention having commenced the consideration thereof,

Mr. Hyslop moved: That the further consideration be postponed until the Committees on Finance and on the Capital have reported.

Discussion ensued.

Business suspended at eleven o'clock a.m.

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* See Appendix E., pages 282-311.—G.R.H.

Quarter-past eleven o'clock a.m.

Business resumed.

3. Minutes of previous meeting confirmed.

4. Discussion resumed on motion [page 153] to postpone consideration of the Draft South Africa Act.

With leave of the Convention,

The motion proposed by Mr. Hyslop was withdrawn.

Dr. Smartt moved: That the debate be now adjourned until to-morrow.

Upon which the Convention divided:

"AYES," 11.	
Browne, Mr.	Burger, Gen.
De Wet, Gen.	De la Rey, Gen.
Fischer, Mr.	De Villiers, Sir J. H.
Hertzog, Gen.	Farrar, Sir G. H.
Jagger, Mr.	Fitzpatrick, Sir J. P.
Jameson, Dr.	Greene, Col.
Maasdorp, Mr.	Hull, Mr.
Sauer, Mr.	Hyslop, Mr.
Smartt, Dr.	Lindsay, Mr.
Stanford, Col.	Malan, Mr.
Walton, Mr.	Merriman, Mr.
	Moor, Mr.
"NOES," 19.	Smuts, Gen.
	Smythe, Mr.
Beck, Dr.	Steyn, Mr.
Botha, Gen.	Van Heerden, Mr.
	Watt, Mr.

The motion accordingly negatived.

The Convention resumed the consideration of the Draft Act.*

Resolved: That the Preamble stand over.†

On Clause Four,

Mr. Hyslop moved: After "name" to omit "of" and to place the words "South Africa" within quotation marks.

Agreed to.

Sir Percy Fitzpatrick moved: To omit "effect" and substitute "authority."

Agreed to.

Sir Percy Fitzpatrick moved: To transpose the last two lines from "The King" to "Union," and insert them after "Africa."

Mr. Malan moved: That the further consideration of this clause stand over.‡

Agreed to.

On Clause Five,

Mr. Hyslop moved: To omit "subsequent."

Agreed to.

Clause, as amended, put and agreed to.

Clause Six having been put,

* Clauses adopted without amendment are not recorded.

† See pages 223 and 237.

‡ See pages 159 and 224.—G.R.H.

Mr. Merriman moved: That the Convention resume the consideration of the Draft Act to-morrow.

Agreed to.

5. On the motion of Mr. Merriman, the Convention adjourned at half-past twelve o'clock p.m.

CAPE TOWN, *Thursday*, 14TH *January*, *1909*.

Ten o'clock a.m.

1. All the members were present, except Sir William Milton.

2. *Mr. Sauer*, as Chairman, brought up the revised* First Report of the Committee appointed by resolution of the Convention, dated the 7th December, 1908 [page 114], to make recommendations in regard to Finance and Trade, as follows:

Your Committee having considered the question of Finance and Trade generally, as well as the following matters specially referred to them, viz.:—

(1) Motion and notices by Mr. Merriman [pages 21 and 114].

(2) Financial relief to Capitals of Colonies in which Union Capital not situated [page 125].

(3) Salary and allowances to be paid to Governor-General [page 125].

(4) Treaty Rights and obligations [page 131],

beg to recommend the following:—

1. All revenues, from whatever source arising, over which the several Colonies have at the establishment of the Union power of appropriation shall vest in the Governor-General-in-Council. There shall be formed a Railway and Harbour Fund, into which shall be paid all revenues raised or received by the Governor-General-in-Council from the administration of the Railways, Ports and Harbours, and such fund shall be appropriated by Parliament to the purposes of the Railways, Ports and Harbours in the manner prescribed by this Act. There shall also be formed a Consolidated Revenue Fund, into which shall be paid all other revenues raised or received by the Governor-General-in-Council, and such fund shall be appropriated by Parliament for the purposes of the Union in the manner prescribed by this Act and subject to the charges imposed thereby.

2. The Governor-General-in-Council shall as soon as may be after the establishment of the Union appoint a Commission, consisting of one representative from each Province, and presided over by an officer from the Imperial Service, to institute an inquiry into the financial relations which should

* The First Report [pages 139-142] was referred back to the Committee for further consideration by resolution dated the 12th January, 1909 [page 152].—G.R.H.

exist between the Union and the Provinces. Pending the completion of that inquiry and until Parliament otherwise provides, there shall be paid annually out of the revenues of the Union to the Administrator of each Province:

(*a*) An amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year 1908-09 as voted by the Parliaments of the respective Colonies during the year 1908.

(*b*) Such further sums as the Governor-General-in-Council may consider necessary for the due performance of the services and duties assigned to the Provinces respectively.

Until such inquiry shall be completed the Executive Committees in the several Provinces shall frame annually estimates of their expenditure for the approval of the Governor-General-in-Council, and no expenditure shall be incurred by any Executive Committee which is not provided for in such approved estimates.

3. The Consolidated Revenue Fund shall be permanently charged with the costs, charges and expenses incident to the collection, management and receipt thereof, and the same shall form the first charge thereon.

4. The annual interest of the public debts of the several Colonies and any sinking funds constituted by law at the establishment of the Union shall form the second charge on the Consolidated Revenue Fund.

5. Subject to the several payments by this Act charged on the Consolidated Revenue Fund the same shall be appropriated by Parliament for the Public Service.

6. No money shall be drawn from the Consolidated Revenue Fund or the Railway and Harbour Fund except under appropriation made by law. But until the expiration of two months after the first meeting of Parliament, the Governor-General-in-Council may draw therefrom and expend such moneys as may be necessary for the public service and for railway and harbour administration respectively.

*7. All stocks, cash, bankers' balances and securities for money belonging to each Colony at the establishment of the Union shall be the property of the Union.

8. Crown lands, public works, and all property throughout the Union, movable or immovable, belonging to the several Colonies at the establishment of the Union, and all rights in connection therewith shall vest in the Governor-General-in-Council, subject to any debt or liability specifically charged thereon.

9. All rights in and to mines and minerals and all rights in connection with the searching for, working for or disposing of minerals or precious stones which at the date of the establishment of the Union are vested in the Government of any of the Colonies shall, on the establishment of the Union, vest in the Governor-General-in-Council.

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* See page 168.—G.R.H.

10. The Union shall assume all debts and liabilities of the several Colonies existing at the establishment of the Union, subject to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and may convert, renew or consolidate such debts.

11. All ports and harbours and all railways belonging to the several Colonies at the establishment of the Union shall from the date of the establishment vest in the Governor-General-in-Council. No railway, port, harbour or similar work shall be constructed without the sanction of Parliament.

12. Subject to the authority of the Governor-General-in-Council, the control and management of the Railways, Ports and Harbours of the Union shall be exercised through a Board consisting of three Commissioners who shall be appointed by the Governor-General-in-Council, and a Minister of State, who shall be Chairman. Each Commissioner shall hold office for a period of five years, but may be reappointed. He shall not be removed before the expiration of his period of appointment except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal if Parliament be then sitting, and if Parliament be not sitting then within one week after the commencement of the next ensuing session. The salaries of the Commissioners shall be fixed and provided by Parliament, and shall not be reduced during their respective terms of office.

13. The Railways, Ports and Harbours of the Union shall, saving the rights of creditors, be administered on business principles, due regard being had to agricultural and industrial development within the Union, and the promotion, by means of cheap transport, of the settlement of an agricultural or industrial population in the inland portions of the Union.

So far as may be, the total earnings shall be not more than are sufficient to meet the necessary outlays for working maintenance, betterment, depreciation and the payment of interest due on capital invested therein, not being capital contributed out of Railway or Harbour revenue and not being interest on any capital which Parliament may provide in accordance with the provisions of Resolution No. 16. The amount of interest due on such capital invested shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund.

The Governor-General-in-Council shall give effect to the provisions of this resolution as soon and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of four years from the establishment of the Union.

14. The Board may establish a fund to be used for maintaining as far as may be uniformity of rates to meet fluctuations in traffic.

15. All balances, standing to the credit of any fund established in any of the Colonies for railway or harbour purposes

at the establishment of the Union shall be under the sole control and management of the Railway and Harbour Board, and shall be deemed to have been appropriated by Parliament for the respective purposes for which they have been provided.

*16. If Parliament shall require the construction of any port or harbour works or any line of railway the earnings of which will in the opinion of the Board be insufficient to meet the charges for working expenses, maintenance, betterment and depreciation and to provide for payment of interest on the capital invested in such construction, provision shall be made annually by Parliament for payment to the Board out of the Consolidated Revenue Fund or otherwise of a sum sufficient to make up any deficiency actually incurred.

*17. If Parliament or the Governor-General-in-Council shall require the Railway and Harbour Board to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities the Commissioners shall at the end of each financial year frame an account showing the amount of expenditure incurred in respect of such services or facilities in excess of the revenue, if any, received in respect thereof, and such amount shall be paid over from the Consolidated Revenue Fund to the Railway and Harbour Fund.

18. That the Governor-General be paid a salary of £10,000 per annum.

19. That Resolution No. 68 already passed by the Convention† be amplified to read as follows:

> 68. A Provincial Revenue Fund shall be formed in every Province into which shall be paid all revenues raised by or accruing to the Provincial Council, and all moneys paid over by the Governor-General-in-Council to the Provincial Council. Such fund shall be appropriated by the Provincial Council by ordinance for the purposes of the Provincial administration generally or, in the case of moneys paid over by the Governor-General-in-Council for particular purposes, then for such purposes, but no such ordinance shall be passed by the Provincial Council unless the Administrator shall have first recommended to the Council to make provision for the specific service for which the appropriation is to be made. No money shall be issued from the Provincial Revenue Fund except in accordance with such appropriation and under warrant signed by the Administrator.

20. The Governor-General-in-Council shall appoint a fit person to be Auditor-General of the Union, and such Auditor-General shall not be removed from office except for cause

* These resolutions were subsequently referred back to the Committee—see pages 167, 168 and 170.

† See pages 102 and 113.—G.R.H.

shown, which shall be communicated in writing to him and by message to both Houses of Parliament within one week after the removal if Parliament be then sitting, and if Parliament be not sitting then within one week after the commencement of the next ensuing session. He shall be paid out of the Consolidated Revenue Fund such salary as the Governor-General-in-Council may, subject to the approval of Parliament, direct.

*21. In regard to the question of financial relief for any loss which may be caused in the form of diminution of prosperity or decreased rateable value by reason of the decision of the Convention as to the situation of the Union Capital the Committee are of opinion that the principle should be recognised; and that relief should be given to existing capitals not selected for the Union Capital by means of a contribution for a period of thirty years and thereafter until Parliament otherwise provides of two per cent. per annum on the amount of the municipal debts of such capitals as at 31st January, 1909, one-half of which contribution shall be applied to redemption of debt.

If within a period of two years from the date of the establishment of the Union the suburban municipalities of Green and Sea Point, Woodstock, Mowbray, Rondebosch, Claremont and Wynberg are incorporated with the Municipality of Cape Town, then a similar contribution for the same period and subject to the same conditions shall be made on the Municipal debts of such suburban Municipalities so incorporated.

Mr. Sauer moved: That the report be considered to-morrow.

Agreed to.

3. Consideration of Draft South Africa Act resumed.

The President stated that when proceedings on the draft Act were adjourned yesterday, Clause Four, as amended, was standing over with a further amendment thereon proposed by Sir Percy Fitzpatrick, and Clause Six had been put.

The further amendment proposed by Sir Percy Fitzpatrick put and negatived.

Clause Four as amended, put and agreed to.

Consideration of Clause Six resumed.

Mr. Fischer moved: To omit "Orange," and substitute "Oranje."

Agreed to.

Clause, as amended, put and agreed to.

On Clause Nine,

Mr. Sauer moved: To fill up the blank with "£10,000."

Agreed to.

Mr. Hyslop moved: After "sum," to omit "which shall be," and substitute "of."

Agreed to.

Clause, as amended, put and agreed to.

* This resolution was subsequently referred back to the Committee—see page 172.—G.R.H.

On Clause Ten,

Mr. Browne moved: To omit all the words from "but no such" to the end.

Agreed to.

Clause, as amended, put and agreed to.

Business suspended at eleven o'clock a.m.

Quarter past eleven o'clock a.m.

Business resumed.

4. Minutes of previous meeting confirmed.

5. Consideration of draft South Africa Act continued.

On Clause Thirteen,

Dr. Beck moved: To omit "House of" before "Assembly," and substitute "Legislative."

Upon which the Convention divided:

"AYES"—13.	"NOES"—17.
Beck, Dr.	Botha, Gen.
De Villiers, Sir J. H.	Browne, Mr.
De Wet, Gen.	Burger, Gen.
Fischer, Mr.	De la Rey, Gen.
Hertzog, Gen.	Farrar, Sir G. H.
Hyslop, Mr.	Fitzpatrick, Sir J. P.
Merriman, Mr.	Greene, Col.
Moor, Mr.	Hull, Mr.
Smythe, Mr.	Jagger, Mr.
Steyn, Mr.	Jameson, Dr.
Van Heerden, Mr.	Lindsay, Mr.
Walton, Mr.	Maasdorp, Mr.
Watt, Mr.	Malan, Mr.
	Sauer, Mr.
	Smartt, Dr.
	Smuts, Gen.
	Stanford, Col.

The amendment accordingly negatived.

The President intimated that he understood this decision to mean that the words "House of Assembly" were to be substituted throughout the Draft Act for "Legislative Assembly" wherever the latter words occur.*

Ordered accordingly.

Clause agreed to without amendment.

On Clause Fourteen,

Mr. Jagger moved: Before "officers," to omit "all."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Clause agreed to without amendment.

†Clause Seventeen having been agreed to,

* In Clause Thirteen the phrase "House of Assembly" was used, but in the remainder of the draft "Legislative Assembly" appeared.

† Subsequently amended—see pages 224 and 237.—G.R.H.

Sir Percy Fitzpatrick moved: That Clauses Eighteen, Twenty-one and Twenty-two stand over.*

Agreed to.

On Clause Twenty-three,

Col. Stanford moved: In sub-section (e), to omit "£1,000" and substitute "£500."

Upon which the Convention divided:

"AYES"—14.	"NOES"—16.
Botha, Gen.	Beck, Dr.
Browne, Mr.	Burger, Gen.
De Wet, Gen.	De la Rey, Gen.
Farrar, Sir G. H.	De Villiers, Sir J. H.
Fischer, Mr.	Greene, Col.
Fitzpatrick, Sir J. P.	Hyslop, Mr.
Hertzog, Gen.	Jagger, Mr.
Hull, Mr.	Maasdorp, Mr.
Jameson, Dr.	Malan, Mr.
Lindsay, Mr.	Merriman, Mr.
Smuts, Gen.	Moor, Mr.
Stanford, Col.	Sauer, Mr.
Steyn, Mr.	Smartt, Dr.
Watt, Mr.	Smythe, Mr.
	Van Heerden, Mr.
	Walton, Mr.

The amendment accordingly negatived.

Gen. Smuts moved: In sub-section (b), before "voter" to insert "Parliamentary."

Mr. Malan moved: After "voter," to insert "for the election of members of the House of Assembly."

Agreed to, and the amendment proposed by General Smuts dropped.

Gen. Hertzog moved: In sub-section (a), before "thirty," to insert "not less than."

Agreed to.

†Clause, as amended, put and agreed to.

On Clause Twenty-five.

Mr. Walton moved: To omit "Before" and substitute "Prior to."

Agreed to.

Clause, as amended, put and agreed to.

On Clause Twenty-six.

Gen. Smuts moved: To omit "thereupon," and substitute "as soon as practicable."

Dr. Smartt moved: That the further consideration of the Clause stand over.‡

Agreed to.

On Clause Twenty-seven.

* See pages 212-217.

† Subsequently further amended—see pages 218 and 224.

‡ See page 217.—G.R.H.

Mr. Walton moved: To omit "twelve" and substitute "one-third of the number of."

This amendment put and negatived.

Clause agreed to without amendment.

*Clause Thirty agreed to, with the substitution of "Oranje" for "Orange."

Clause Thirty-one put.

Discussion ensued.

6. *Gen. Smuts* moved: That at its rising on Friday the Convention adjourn until Saturday at ten o'clock a.m.

Agreed to.

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

7. Consideration of Draft South Africa Act continued.

Mr. Jagger moved: To add a new sub-section to Clause Thirty-one:

(vi.) "Adult males" in this Act shall be taken to mean males of twenty-one years of age or upwards.

Agreed to.

Mr. Fischer moved: In sub-section (iii), before "Census" where it occurs the second time to insert "last preceding," and to omit "of 1904."

Mr. Malan moved: That the further consideration of this clause stand over.†

Agreed to.

On Clause Thirty-three,

Mr. Malan moved: To add at the end "A bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament."

Agreed to.

‡Clause, as amended, put and agreed to.

On Clause Thirty-five,

Mr. Lindsay moved: That this Clause be added to Clause Thirty-three, as a sub-section (ii).

Agreed to.

Mr. Watt moved: That this sub-section be amended by omitting "prior to" and substituting "at," and by omitting "shall be" where it first occurs and substituting "is."

Agreed to.

Clause, as amended, put and agreed to.

On Clause Thirty-six.

Gen. Smuts moved: In sub-section (ii) to omit from "the date" to "Union and," and to omit "such" and substitute "the electoral."

Agreed to.

Mr. Watt moved: To omit "on the same day," and to add "on a day to be appointed by the Governor-General-in-Council."

* Subsequently further amended—see pages 208 and 234.

† See pages 207–209.

‡ See pages 220 and 223.—G.R.H.

Mr. Jagger moved: After "on" to insert "one and," and to add at the end "such day to be appointed by the Governor-General-in-Council."

After discussion,

With leave of the Convention,

The amendment proposed by Mr. Watt was withdrawn.

The amendments proposed by Mr. Jagger put and agreed to.

Clause, as amended, put and agreed to.

Gen. Smuts moved: That Clauses Thirty-seven and Thirty-eight stand over.†

Agreed to.

On Clause Thirty-nine,

Mr. Malan moved: After "Joint Commission" to insert "to be appointed consecutively in each of the Colonies by the Governor thereof."

Discussion ensued.

Col. Greene moved: That the consideration of the Draft Act be adjourned until to-morrow.

Mr. Smythe moved: That the Convention suspend business for ten minutes.

This motion having been put and negatived,

The motion for the adjournment was then put and agreed to.

8. On the motion of Dr. Smartt, the Convention adjourned at four o'clock p.m.

CAPE TOWN, *Friday*, 15TH *January*, *1909*.

Ten o'clock a.m.

1. All the members were present except Sir William Milton.

2. *The President* put in letters from the Mayor and Town Councillors of Parys, Orange River Colony, dated the 3rd December, 1908, and from the Mayor of Potchefstroom, Transvaal, dated the 13th instant, setting forth the advantages of those places respectively as a site for the Union Capital.

3. Revised First Report of Committee on Finance to be considered.

The President stated that this report would be found on pages 155-159 of the Proceedings.

On Resolution No. 1 [page 155].

Gen. Smuts moved: To omit at the end "and subject to the charges imposed thereby."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Resolution put and agreed to.

On Resolution No. 2 [pages 155-156].

Mr. Van Heerden moved: To add after sub-section (b) "and in respect of the Cape of Good Hope an additional

* Subsequently further amended—see page 224.

† See page 209.—G.R.H.

amount equal to that raised in that Colony during the financial year 1908-9 by means of local taxation for the purpose of such education."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Gen. Smuts moved: To omit "revenues of the Union" and substitute "Consolidated Revenue Fund."

Agreed to.

Mr. Jagger moved: To omit "such inquiry shall be completed" and substitute "the provision mentioned in the foregoing part of this section has been made by Parliament;" and to omit "frame," and insert "submit" after "annually."

Gen. Smuts moved: After "completed" to insert "and Parliament shall have made other provision."

With leave of the Convention,

The first part of Mr. Jagger's amendment was withdrawn.

The remaining amendments put and agreed to.

Business suspended at eleven o'clock a.m.

Quarter past eleven o'clock a.m.

Business resumed.

4. Minutes of previous meeting amended in two particulars and confirmed.

5. On the suggestion of the President,

Resolved: That the Convention adjourn to-morrow not later than half-past twelve o'clock p.m.

6. Consideration of Resolution No. 2 of revised First Report of Committee on Finance continued.

Resolution, as amended, put and agreed to, viz.:—

2. The Governor-General-in-Council shall, as soon as may be after the establishment of the Union, appoint a Commission, consisting of one representative from each Province, and presided over by an officer from the Imperial Service, to institute an inquiry into the financial relations which should exist between the Union and the Provinces. Pending the completion of that inquiry, and until Parliament otherwise provides, there shall be paid annually out of the Consolidated Revenue Fund to the Administrator of each Province:

(a) an amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year 1908-09, as voted by the Parliaments of the respective Colonies during the year 1908;

(b) such further sums as the Governor-General-in-Council may consider necessary for the due performance of the services and duties assigned to the Provinces respectively.

Until such inquiry shall be completed, and Parliament shall have made other provision, the Executive Committees in the several Provinces shall annually submit estimates of their expenditure for the approval of the Governor-General-in-Council, and no expenditure shall be incurred by any Execu-

tive Committee which is not provided for in such approved estimates.

Resolutions No. 3 to 7* [page 156] put and agreed to.

On Resolution 8 [page 156],

Gen. Smuts moved: To omit "in connection therewith," and substitute "of whatever description."

Agreed to.

Resolution, as amended, put and agreed to, viz.:

8. Crown lands, public works, and all property throughout the Union, movable or immovable, belonging to the several Colonies at the establishment of the Union, and all rights of whatever description shall vest in the Governor-General-in-Council, subject to any debt or liability specifically charged thereon.

Resolution No. 9 [page 156] put and agreed to.

On Resolution No. 10 [page 157],

Gen. Smuts moved: To omit "the" before "establishment," and substitute "its" and to omit "of the Union."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Mr. Merriman moved: To omit "the" before "Union" and substitute "such."

This amendment put and negatived.

Resolution put and agreed to without amendment.

On Resolution No. 11 [page 157],

Dr. Smartt moved: To omit the first "and" and the second "all."

Mr. Merriman moved: To omit "of the establishment" and substitute "thereof."

These amendments put and agreed to.

Mr. Jagger moved: To omit the last sentence.

This amendment put and negatived.

Mr. Walton moved: After "No" to insert "public."

Agreed to.

Resolution, as amended, put and agreed to, viz.:—

11. All ports, harbours and railways belonging to the several Colonies at the establishment of the Union shall from the date thereof vest in the Governor-General-in-Council. No public railway, port, harbour or similar work shall be constructed without the sanction of Parliament.

On Resolution No. 12 [page 157],

Gen. Smuts moved: Before "if Parliament" to omit "and" and substitute "or."

Agreed to.

Sir George Farrar moved: Before "three" to insert "not more than."

* Resolution No. 7 was subsequently referred back to the Committee (see pages 168, 186, 188).

Mr. Jagger moved: After "three" to insert "and not less than two."

The amendment proposed by Sir George Farrar put and agreed to.

The amendment proposed by Mr. Jagger put and negatived.

Resolution, as amended, put and agreed to, viz.:—

12. Subject to the authority of the Governor-General-in-Council, the control and management of the Railways, Ports and Harbours of the Union shall be exercised through a Board consisting of not more than three Commissioners who shall be appointed by the Governor-General-in-Council and a Minister of State who shall be Chairman. Each Commissioner shall hold office for a period of five years, but may be re-appointed. He shall not be removed before the expiration of his period of appointment except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal if Parliament be then sitting or if Parliament be not sitting then within one week after the commencement of the next ensuing session. The salaries of the Commissioners shall be fixed and provided by Parliament, and shall not be reduced during their respective terms of office.

On Resolution No. 13 [page 157],

Dr. Beck moved: To omit "on business principles due regard being had" and substitute "with due regard."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Mr. Lindsay moved: To omit "saving the rights of creditors."

Agreed to.

Gen. Smuts moved: After "agricultural" to omit "or" and substitute "and."

Agreed to.

Resolution, as amended, put and agreed to, viz.:—

13. The Railways, Ports and Harbours of the Union shall be administered on business principles, due regard being had to agricultural and industrial development within the Union and the promotion, by means of cheap transport, of the settlement of an agricultural and industrial population in the inland portions of the Union.

So far as may be the total earnings shall be not more than are sufficient to meet the necessary outlays for working, maintenance, betterment, depreciation and the payment of interest due on capital invested therein, not being capital contributed out of Railway or Harbour revenue, and not being interest on any capital which Parliament may provide in accordance with the provisions of Resolution No. 16. The amount of interest due on such capital invested shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund.

The Governor-General-in-Council shall give effect to the provisions of this resolution as soon and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of four years from the establishment of the Union.

Resolution No. 14 [page 157] put and agreed to.

On Resolution No. 15 [pages 157-158].

Mr. Fischer moved: To make "railway" and "harbour" in the plural; to omit "or"; after "harbour" to insert "*or* other special"; to omit all the words after "purposes" to "Board and," and to add at the end "All balances standing to the credit of railways or harbours shall be under the sole control and management of the railway and harbour boards."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Resolution put and agreed to without amendment.

On the motion of Mr. Watt,

The Convention reverted to Resolution No. 13 [page 157].

Mr. Watt moved: To omit "invested therein."

This amendment put and negatived.

On Resolution No. 16 [page 158],

Gen. Smuts moved: After "make" to omit "up" and substitute "good."

Agreed to.

Resolution, as amended, put and agreed to [see below].

*Resolution No. 17 [page 158] put and agreed to. [See below.]

Resolution No. 18 [page 158] put and agreed to.

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

Consideration of revised First Report of Committee on Finance continued.

On the motion of Gen. Smuts, the Convention reverted to Resolution No. 17 [page 158].

Mr. Walton moved: After "amount" to insert "after audit."

This amendment was put and negatived.

On the motion of Gen. Hertzog, the Convention reverted to Resolution No. 16 [page 158].

Gen. Hertzog moved: Before "Parliament" to insert "contrary to the advice of the Board."

Dr. Smartt moved: After "railway" to insert "not recommended by the Board."

Mr. Jagger moved: That the Resolution be referred back to the Finance Committee.

* This resolution was subsequently referred back to the Committee—see page 170 C.R.H.

Upon which the Convention divided:

"AYES"—17.

Botha, Gen.
Burger, Gen.
De la Rey, Gen.
De Wet, Gen.
Farrar, Sir G. H.
Fitzpatrick, Sir J. P.
Greene, Col.
Hull, Mr.
Hyslop, Mr.
Jagger, Mr.
Malan, Mr.
Moor, Mr.
Smuts, Gen.
Smythe, Mr.
Steyn, Mr.
Walton, Mr.
Watt, Mr.

"NOES"—13.

Beek, Dr.
Browne, Mr.
De Villiers, Sir J. H.
Fischer, Mr.
Hertzog, Gen.
Jameson, Dr.
Lindsay, Mr.
Maasdorp, Mr.
Merriman, Mr.
Sauer, Mr.
Smartt, Dr.
Stanford, Col.
Van Heerden, Mr.

Motion accordingly agreed to.

On Resolution No. 19 [page 158],

Resolved: That this resolution be considered when Clause 90* of the Draft South Africa Act is under consideration.

On Resolution No. 20 [pages 158-159],

Mr. Merriman moved: To add "and shall exercise such powers and functions as may be assigned to him by Parliament, and pending provision to be made in that behalf, he shall exercise *mutatis mutandis* such powers and functions as are assigned to the Controller and Auditor-General under the Audit Act No. 14 of 1906 of the Colony of the Cape of Good Hope and the regulations thereunder."

Discussion ensued.

Mr. Merriman moved: That the debate be adjourned until to-morrow.

Agreed to.

7. *The President* read and put in a telegram of this date from the Town Clerk of Kroonstad offering, on behalf of the Town Council, sites at that place for federal buildings and other requirements.

8. *Mr. Fischer* moved: That the Convention revert to Resolution No. 7 of the Finance Committee's Report with a view of considering the following proviso, viz.:—"Provided that the balances of any funds raised by law for any special purposes in any of the Colonies shall be deemed to have been appropriated by Parliament for the special purposes for which they have been provided."

Mr. Hull moved: That the proposed proviso be referred to the Finance Committee.

Agreed to.

9. On the motion of Mr. Fischer, the Convention adjourned at a quarter to four o'clock p.m.

* See pages 182-183. G.R.H.

CAPE TOWN, *Saturday*, 16TH *January*, *1909*.

Ten o'clock a.m.

1. All the members were present except Sir William Milton and Mr. Steyn.

2. Consideration of revised first report of Committee on Finance, resumed.

The President stated that this report would be found on pages 155-159 of the Proceedings, and that when the consideration was adjourned yesterday, Resolution No. 20 had been put [pages 158-159], and an amendment had been moved by Mr. Merriman to add "and shall exercise such powers and functions as may be assigned to him by Parliament, and pending provision to be made in that behalf, he shall exercise *mutatis mutandis* such powers and functions as are assigned to the Controller and Auditor-General under the Audit Act No. 14 of 1906 of the Colony of the Cape of Good Hope and the regulations thereunder."

Col. Stanford moved, as an amendment to Mr. Merriman's amendment: To omit all the words after "under" and substitute "regulations to be framed by the Governor-General-in-Council."

Mr. Fischer moved: To add to the Resolution: "Until Parliament shall otherwise provide the Controller and Auditor-General shall exercise such powers and functions, and undertake such duties as may be assigned to him by the Governor-General-in-Council by regulations framed in that behalf."

After discussion,

The amendments proposed by Mr. Merriman and Col. Stanford were withdrawn.

The amendment proposed by Mr. Fischer put and agreed to.

Mr. Merriman moved: Before "Auditor-General" to insert "Controller and"; to omit "of the Union and such Auditor-General" and substitute "who"; and before "it Parliament" to omit "and" and substitute "or."

Agreed to.

Resolution, as amended, put and agreed to, viz.:—

20. The Governor-General-in-Council shall appoint a fit person to be Controller and Auditor-General who shall not be removed from office except for cause shown which shall be communicated in writing to him, and by message to both Houses of Parliament within one week after the removal if Parliament be then sitting or if Parliament be not sitting then within one week after the commencement of the next ensuing session. He shall be paid out of the Consolidated Revenue Fund such salary as the Governor-General-in-Council may subject to the approval of Parliament direct. Until Parliament shall otherwise provide the Controller and Auditor-General shall exercise such powers and functions, and undertake such duties as may be assigned to him by the Governor-General-in-Council by regulations framed in that behalf.

On the motion of Mr. Hull, the Convention reverted to Resolution No. 17 [page 158].

Mr. Hull moved: That this Resolution be referred back to the Finance Committee.

Agreed to.

Resolution No. 21 [page 159] put.

Mr. Sauer moved: That the consideration of this resolution stand over.

After discussion,

This motion was put and negatived.

Mr. Jagger moved: To omit all the words after "redemption of debt," and substitute "In the case of Cape Town it shall be taken to include the suburban municipalities of Green and Sea Point, Woodstock, Mowbray, Rondebosch, Claremont and Wynberg."

Mr. Hull moved, as an amendment: That the Resolution read as follows:

21. The Convention recognises the principle of compensating on a liberal scale the present Capitals of the Colonies for any loss which may be caused in the form of diminution of prosperity or decreased rateable value by reason of the decision of the Convention as to the situation of the Union Capital.

In view of the impossibility of determining at the present time the amount of such loss and the extent to which the towns in question may be benefitted by administrative and other changes consequent on the establishment of Union, the Convention recommends to Parliament that the Commission which is to inquire into the financial relations between the Union and the Provinces should be instructed to inquire into this matter and to report what compensation, if any, should be paid by the Union Government to the towns in question.

Discussion ensued.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

3. Minutes of previous meeting confirmed.

4. Consideration of Resolution No. 21 of revised first report of Finance Committee continued.

Gen. Botha moved: That the further consideration of this resolution be postponed until after the question of the Union Capital has been decided.

Discussion ensued.

On the motion of Mr. Fischer,

The debate was adjourned until Monday.

5. On the motion of Mr. Sauer, the Convention adjourned at twenty-five minutes to one o'clock p.m.

CAPE TOWN, *Monday*, 18th *January*, *1909*.

Ten o'clock a.m.

1. All the members were present, except Sir William Milton.

2. Consideration of Revised First Report of Committee on Finance resumed.

The President stated that this report would be found on pages 155-159 of the Proceedings, and that when the consideration was adjourned on Saturday Resolution No. 21 [page 159] had been put, and the following amendments had been moved, viz.:—

By Mr. Jagger: To omit all the words after "redemption of debt" and substitute "In the case of Cape Town it shall be taken to include the suburban municipalities of Green and Sea Point, Woodstock, Mowbray, Rondebosch, Claremont and Wynberg."

By Mr. Hull: That the resolution read as follows:—

21. The Convention recognises the principle of compensating on a liberal scale the present Capitals of the Colonies for any loss which may be caused in the form of diminution of prosperity or decreased rateable value by reason of the decision of the Convention as to the situation of the Union Capital.

In view of the impossibility of determining at the present time the amount of such loss and the extent to which the towns in question may be benefitted by administrative and other changes consequent on the establishment of Union, the Convention recommends to Parliament that the Commission which is to inquire into the financial relations between the Union and the Provinces, should be instructed to inquire into this matter and to report what compensation, if any, should be paid by the Union Government to the towns in question.

A motion had then been moved by Gen. Botha: That the further consideration of this resolution be postponed until after the question of the Union Capital has been decided.

After discussion,

The motion proposed by General Botha was put, and the Convention divided:

"AYES," 11.

Botha, Gen.
Burger, Gen.
De la Rey, Gen.
De Wet, Gen.
Farrar, Sir G. H.
Fitzpatrick, Sir J. P.
Hull, Mr.
Lindsay, Mr.
Maasdorp, Mr.
Smuts, Gen.
Walton, Mr.

"NOES," 19.

Beck, Dr.
Browne, Mr.
De Villiers, Sir J. H.
Fischer, Mr.
Greene, Col.
Hertzog, Gen.
Hyslop, Mr.
Jagger, Mr.
Jameson, Dr.
Malan, Mr.
Merriman, Mr.
Moor, Mr.
Sauer, Mr.
Smartt, Dr.
Smythe, Mr.
Stanford, Col.
Steyn, Mr.
Van Heerden, Mr.
Watt, Mr.

The motion accordingly negatived.

Col. Greene moved, as a further amendment: To omit the words "and thereafter until Parliament otherwise provides."

Dr. Smartt moved, as an amendment to Mr. Hull's amendment: To omit "the Convention recommends to Parliament that."

Sir Percy Fitzpatrick moved: That this resolution be referred back to the Finance Committee.

Discussion ensued.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

3. Minutes of previous meeting confirmed.

4. *The President*, as Chairman, brought up the report* of the Committee appointed by resolution of the Convention, dated the 10th and 14th December, 1908 [pages 125-126 and 128] to report as to the procedure to be followed by the Convention in deciding as to the Capital of the Union, as follows:

The Committee beg to report as follows:—

1. It was proposed by Gen. Hertzog that the method of voting for the Union Capital should be:—

(i) The Convention shall, previous to the election of a site for the Union Capital in any Colony, elect from amongst the four Colonies represented at the Convention any one of the said Colonies as the Colony within which the capital is to be situated.

(ii) Such Colony shall be elected in manner following:

(*a*) Every member of the Convention shall have and bring out one vote on paper;

(*b*) The voting paper shall contain the name of the Colony preferred by the voter from amongst the said four Colonies, and shall be signed by the voter and thereupon handed over to the Chief Secretary of the Convention, who, together with the other secretaries, shall count the voting papers and make a return thereof to the President of the Convention, specifying the number of votes given in favour of each of the several Colonies aforesaid:

(*c*) The Colony which is found to have obtained the smallest number of votes shall thereupon be eliminated from the list, and thereafter the Convention shall again vote in manner above prescribed between the remaining three Colonies and the Colony which upon such second voting has obtained the smallest number of votes shall likewise be eliminated:

(*d*) In the event of the voting in any of the two previous cases resulting in a tie between the two Colonies which have obtained the smallest number of votes, the Convention shall

* For Interim Report see pages 138-139.—G.R.H.

immediately and without proceeding any further with the voting, decide in the ordinary manner as to which of the said two Colonies shall be eliminated;

(*e*) As soon as the number of Colonies on the list shall have been reduced to two, the Convention, in manner prescribed above, shall proceed to vote between the two Colonies thus remaining, and the Colony which thereupon obtains sixteen or more votes shall be declared to be the Colony elected for the site of the Union Capital: provided that any delegate from any of the four Colonies shall be entitled to challenge the right of such Colony to be declared so elected by proposing any one of the said four Colonies, except such Colony or Colonies as has, or have, already singly competed with the Colony elected, but not yet so declared, and in case any Colony so opposed to the Colony elected shall obtain in its favour an absolute majority of the votes of the members of the Convention, such Colony shall, subject likewise to the above proviso, be declared elected for the site of the Union Capital;

But in case no Colony so opposed to the Colony at the time elected shall obtain in its favour at least fifteen votes, the Colony already elected shall be declared elected for the site of the Union Capital.

(II) Gen. Botha proposed that the procedure should be as follows:—

Each delegate writes the name of the Colony within which, in his opinion, the Capital should be situated on a voting paper signed by himself, i.e., A, B, C, or D.

The Chief Secretary reads aloud the voting papers, and the other Secretaries count the same.

The lowest falls out, but if the two lowest are equal the Convention by voting papers votes between the two, and the lowest (D) falls out.

Each delegate writes on a voting paper, as before, the name of A, B, or C. The lowest falls out, but if the two lowest are equal the Convention by voting papers votes between these two, and the lowest (C) falls out.

The Convention then by voting papers votes between A and B, and the highest, if it receives sixteen or more votes, is declared duly elected as the Province in which the Capital should be situated.

(III.) Two votes were given for Gen. Hertzog's proposal and two for Gen. Botha's, and in view of this equality it was decided that, rather than call upon the Chairman to give his casting vote, it should be left to the Convention itself to decide between the two proposals, or if need be to propose some other mode of procedure.

5. Consideration of First Revised Report of Finance Committee continued.

The motion proposed by Sir Percy Fitzpatrick [page 172] to

refer the Resolution No. 21 back to the Committee put, and the Convention divided:

"AYES," 17.	"NOES," 13.
Botha, Gen.	Beck, Dr.
Burger, Gen.	Browne, Mr.
De la Rey, Gen.	De Villiers, Sir J. H.
De Wet, Gen.	Fischer, Mr.
Farrar, Sir G. H.	Hyslop, Mr.
Fitzpatrick, Sir J. P.	Jameson, Dr.
Greene, Col.	Lindsay, Mr.
Hertzog, Gen.	Maasdorp, Mr.
Hull, Mr.	Merriman, Mr.
Jagger, Mr.	Smartt, Dr.
Malan, Mr.	Smythe, Mr.
Moor, Mr.	Stanford, Col.
Sauer, Mr.	Watt, Mr.
Smuts, Gen.	
Steyn, Mr.	
Van Heerden, Mr.	
Walton, Mr.	

The motion accordingly agreed to.

6. Consideration of Draft South Africa Act resumed.

The President stated that when the draft Act was under consideration on the 14th instant Clause Thirty-nine had been put, and an amendment had been moved by Mr. Malan: After "Joint Commission" to insert "to be appointed consecutively in each of the Colonies by the Governor thereof."

After discussion,

Sir Percy Fitzpatrick moved: That this Clause be referred back to the Drafting Committee.*

Agreed to.

On Clause Forty-two,

The President moved: After "principles as" to omit "in" and substitute "are by this Act provided in regard to."

Agreed to.

Mr. Fischer moved: After "Province and" to insert "subject to the provisions of section ....," and to omit "any additional" and substitute "the number of."

Mr. Hyslop moved: To transpose the words from "to provide" down to "this Act," and insert them after "South Africa."

Gen. Smuts moved: That this Clause be referred back to the Drafting Committee.†

Agreed to.

On Clause Forty-three,

Mr. Malan moved: In sub-section (iii) to omit the last words "of the provinces."

Agreed to.

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* See pages 209 and 225.

† See pages 209 and 248. G.R.H.

Mr. Watt moved: That this Clause be referred back to the Drafting Committee.

After discussion,

This motion was put and negatived.

Mr. Jagger moved: To add at the end of paragraph (a), sub-section (i) "and the number of members to which each division is entitled."

Agreed to.

Gen. Hertzog moved: At the end of sub-section (iii) to insert "of the Union in the Provinces."

Agreed to.

*Clause, as amended, put and agreed to.

On Clause Forty-five.

Gen. Smuts moved: To transpose the words, "He must" in sub-section (i) to follow the words "as follows."

Agreed to.

Mr. Malan moved: To omit "an electoral division of the Union," and substitute "one of the provinces."

Agreed to.

Clause, as amended, put and agreed to.

On Clause Forty-six.

The President moved: To omit "of the House" and substitute "thereof."

Agreed to.

Clause, as amended, put and agreed to.

On Clause Forty-eight.

Mr. Walton moved: To omit "Before" and substitute "Prior to."

Agreed to.

Clause, as amended, put and agreed to.

On Clause Forty-nine.

Mr. Jagger moved: To omit "or telegram."

This amendment put and negatived.

†Clause agreed to without amendment.

On Clause Fifty.

Mr. Jagger moved: To omit "at least thirty" and substitute "one-fourth of the number of."

Discussion ensued.

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

7. Consideration of draft South Africa Act continued.

The amendment proposed by Mr. Jagger put and negatived.

Clause agreed to without amendment.

On Clause Fifty-four,

Mr. Jagger moved: After "unless" to insert "he shall have been released from" and to omit "shall have expired."

After discussion,

This amendment was put and negatived.

* Subsequently further amended—see page 225.

† Subsequently amended—see page 232.—G.R.H.

Mr. Hull moved: To omit "infamous crime and" and substitute "offence for which he shall have been" and after "fine" to insert "for a term of not less than twelve months."

Agreed to.

Dr. Smartt moved: To add to sub-section (c) "or an officer or member of the naval or military forces of the Union whose services are not wholly employed by the Union."

Agreed to.

Mr. Malan moved: To omit sub-section (i).

After discussion,

This amendment was put, and the Convention divided:

"AYES," 16.	"NOES," 14.
Browne, Mr.	Beck, Dr.
Burger, Gen.	Botha, Gen.
De Villiers, Sir J. H.	De la Rey, Gen.
Fischer, Mr.	De Wet, Gen.
Greene, Col.	Farrar, Sir G. H.
Hertzog, Gen.	Fitzpatrick, Sir J. P.
Hyslop, Mr.	Hull, Mr.
Jagger, Mr.	Jameson, Dr.
Lindsay, Mr.	Merriman, Mr.
Maasdorp, Mr.	Sauer, Mr.
Malan, Mr.	Smuts, Gen.
Moor, Mr.	Steyn, Mr.
Smartt, Dr.	Van Heerden, Mr.
Smythe, Mr.	Walton, Mr.
Stanford, Col.	
Watt, Mr.	

The amendment accordingly agreed to.

Dr. Beck moved: After "declared" in sub-section (iv) to insert "and still is."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Gen. Hertzog moved: To amend sub-section (iv) to read "(iv) is of unsound mind, and has been so declared by a competent Court."

Agreed to.

Gen. Smuts moved: To insert "or" at the end of each sub-section, except the last.

Agreed to.

Clause, as amended, put and agreed to.

Mr. Malan moved: That the following be a new Clause Fifty-four:

"(54) Any member of a Provincial Council who shall be elected as a member of either House of Parliament shall thereupon cease to be a member of such Provincial Council.

* See page 225.—G.R.H.

Agreed to.

On Clause Fifty-five,

Mr. Jagger moved: That the following be a new sub-section (iv.):

(iv) Directly or indirectly takes or agrees to take any fee or honorarium for services rendered in Parliament to any person or persons.

This amendment put and negatived.

Gen. Hertzog moved: To omit "last preceding" and insert after "section" the words "fifty-four."

Agreed to.

Clause, as amended, put and agreed to.

On Clause Fifty-six,

Gen. Smuts moved: To omit "such person" and substitute "he."

Agreed to.

Clause, as amended, put and agreed to.

On Clause Fifty-seven,

Mr. Hyslop moved: To transpose the words "under such rules as shall be framed by Parliament" to follow after "shall."

Agreed to.

Clause, as amended, put and agreed to.

On Clause Fifty-eight,

Mr. Jagger moved: After "members," where it first occurs, to insert "and."

This amendment put and negatived.

Clause agreed to without amendment.

On Clause Fifty-nine,

Gen. Smuts moved: To omit the last sentence and substitute:

If a joint sitting of both Houses of Parliament is required under the provisions of this Act, it shall be convened by the Governor-General by message to both Houses. At any such joint sitting the Speaker of the House of Assembly shall preside and the rules of the House of Assembly shall as far as practicable apply.

Agreed to.

Clause, as amended, put and agreed to.

On Clause Sixty-one,

Mr. Merriman moved: That the consideration of this Clause stand over.†

Agreed to.

On Clause Sixty-three,

Dr. Smartt moved: To omit the word "address" where it occurs.

This amendment put and negatived.

Clause agreed to without amendment.

On Clause Sixty-four,

Subsequently further amended—see page 227

† See page 209.] G.R.H.

Gen. Smuts moved: Before the last word "Parliament" to insert "both Houses of."

Col. Greene moved: That the further consideration of this Clause stand over.*

Agreed to.

†Clause Sixty-eight having been agreed to,

Mr. Merriman moved: That the further consideration of the draft Act be adjourned until to-morrow.

Agreed to.

8. On the motion of Mr. Merriman, the Convention adjourned at a quarter to four o'clock p.m. until to-morrow at two o'clock p.m.

CAPE TOWN, *Tuesday*, 19th *January*, *1909*.

Two o'clock p.m.

1. All the members were present, except Sir William Milton.

2. Minutes of previous meeting confirmed.

3. *The President* read and put in a letter, dated the 15th instant, from the Secretary of the Stellenbosch Agricultural Society and the Town Clerk of Stellenbosch, inviting the members to attend the Agricultural Show at that place on the 28th instant.

General Botha moved: That the invitation be accepted on condition that the Convention be still in session on the date in question, and that members could not remain in Stellenbosch after half-past twelve o'clock.

After discussion,

This motion was put and negatived.

4. *Gen. Smuts* moved: That the Convention at its rising on Friday next adjourn until Saturday.

Agreed to.

5. *Gen. Hertzog* moved: That a Committee be appointed to supervise the Dutch draft of the South Africa Act; the Committee to consist of one member from each Colony to be nominated by the respective Prime Ministers.

Agreed to.

The members of the Committee were then nominated as follows:—*Cape of Good Hope*, Mr. Malan; *Natal*, Mr. Moor; *Transvaal*, Gen. Smuts, and *Orange River Colony*, Gen. Hertzog.

6. Consideration of draft South Africa Act, resumed.

The President stated that when the draft Act was under consideration yesterday Clause Sixty-eight had been agreed to.

On Clause Sixty-nine,

The President moved: In sub-section (iii), before "if Parliament" to omit "and" and substitute "or."

Agreed to.

* See page 209.

† Subsequently amended—see page 225.—G.R.H.

Clause, as amended, put and agreed to.

On Clause Seventy-one,

Gen. Smuts moved: To omit "in the original Provinces" and after "twenty-five" where it first occurs, to insert "in number."

Agreed to.

*Clause, as amended, put and agreed to.

On Clause Seventy-three,

Gen. Smuts moved: After "fifty-four" to omit "and," and after "fifty-five" to insert "and fifty-six."

Agreed to.

†Clause, as amended, put and agreed to.

On Clause Seventy-five,

Gen. Smuts moved: At the end to add "session."

Agreed to.

*Clause, as amended, put and agreed to.

On Clause Seventy-six,

Gen. Smuts moved: Before "elect" to omit "may" and substitute "shall."

Agreed to.

Clause, as amended, put and agreed to.

On Clause Seventy-eight,

Mr. Jagger moved: To omit all the words down to "speech" where it occurs a second time and substitute "The privileges of Parliament in respect of freedom of speech shall extend to the Provincial Councils and such privilege."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Sir Percy Fitzpatrick moved: To omit all the words down to "Council and" and substitute "no member shall be liable to any action or proceeding in any Court by reason of his speech or vote in such Council."

This amendment put and negatived.

Clause agreed to without amendment.

On Clause Seventy-nine,

Gen. Smuts moved: After "with the Administrator" to insert "who shall be Chairman."

Agreed to.

Clause, as amended, put and agreed to.

On Clause Eighty.

Mr. Malan moved: To omit "debates" and substitute "proceedings."

Agreed to.

Clause, as amended, put and agreed to.

On Clause Eighty-two,

Mr. Jagger moved: That the following be substituted in lieu thereof:

* Subsequently further amended—see pages 225 and 226.
† Subsequently further amended—see page 237. G.R.H.

82. The Governor-General-in-Council shall delegate to the Administrator of each Province such powers, authorities and functions as relate to matters in respect of which the Provincial Council of such Province is competent to make ordinances; and such powers, authorities and functions shall be exercised by such Administrator in so far as they have been delegated to him by the Governor-General-in-Council, and no further.

After discussion,

With leave of the Convention,

This amendment was withdrawn.

*Clause agreed to without amendment.

On Clause Eighty-three,

Mr. Hyslop moved: After "votes of the" to insert "elected" and to omit "also."

After discussion,

This amendment was put, and the Convention divided:

"AYES"—13.	"NOES"—17.
Beck, Dr.	Botha, Gen.
De Villiers, Sir J. H.	Browne, Mr.
Greene, Col.	Burger, Gen.
Hyslop, Mr.	De la Rey, Gen.
Jagger, Mr.	De Wet, Gen.
Maasdorp, Mr.	Farrar, Sir G. H.
Malan, Mr.	Fischer, Mr.
Moor, Mr.	Fitzpatrick, Sir J. P.
Smartt, Dr.	Hertzog, Gen.
Smythe, Mr.	Hull, Mr.
Stanford, Col.	Jameson, Dr.
Van Heerden, Mr.	Lindsay, Mr.
Watt, Mr.	Merriman, Mr.
	Sauer, Mr.
	Smuts, Gen.
	Steyn, Mr.
	Walton, Mr.

The amendment accordingly negatived.

†Clause agreed to without amendment.

Mr. Merriman moved: That the consideration of the draft Act be adjourned until to-morrow, which was put and negatived.

Clause Eighty-five having been agreed to,

On the motion of Mr. Malan, the consideration of the draft Act was adjourned until to-morrow.

7. On the motion of Mr. Malan, the Convention adjourned at four o'clock p.m.

* Subsequently further amended see pages 180 and 226.

† See page 218. G.R.H.

CAPE TOWN, *Wednesday*, 20TH *January, 1909.*

Ten o'clock a.m.

1. All the members were present, except Sir William Milton and Gen. de Wet.

2. Consideration of draft South Africa Act resumed.

The President stated that when the draft Act was under consideration yesterday, Clause Eighty-five had been agreed to.

On the motion of Mr. Watt,

The Convention reverted to Clause Eighty-two.

Mr. Watt moved: After "province" to insert "with the advice and consent of the Executive Committee."

After discussion,

The amendment was put and the Convention divided:

"AYES"—7.	De Villiers, Sir J. H.
	Farrar, Sir G. H.
Greene, Col.	Fischer, Mr.
Hyslop, Mr.	Fitzpatrick, Sir J. P.
Jagger, Mr.	Hertzog, Gen.
Moor, Mr.	Hull, Mr.
Smythe, Mr.	Jameson, Dr.
Stanford, Col.	Lindsay, Mr.
Watt, Mr.	Maasdorp, Mr.
	Malan, Mr.
	Merriman, Mr.
"NOES"—22.	Sauer, Mr.
	Smartt, Dr.
Beck, Dr.	Smuts, Gen.
Botha, Gen.	Steyn, Mr.
Browne, Mr.	Van Heerden, Mr.
Burger, Gen.	Walton, Mr.
De la Rey, Gen.	

The amendment accordingly negatived.

On Clause Eighty-six,

Mr. Malan moved: In sub-section (2) after "money" to insert "for provincial purposes."

This amendment put and negatived.

Gen. Smuts moved: In sub-section (12) to omit "in the opinion of the Governor-General-in-Council are" and substitute "Parliament may by resolution declare to be."

After discussion,

With leave of the Convention,

The amendment was withdrawn.

Clause agreed to without amendment.

On Clause Eighty-nine,

Mr. Lindsay moved: That the clause read as follows:—

89. Parliament may subject to such procedure as it shall determine refer any private bill to the Provincial Council of the Province to which the matter thereof relates instead of referring it to a Select Committee of Parliament and such

Council shall thereupon take evidence in respect of such bill and report thereon to Parliament.

After discussion,

With leave of the Convention,

This amendment was withdrawn.

*Clause agreed to without amendment.

In putting Clause Ninety *the President* called attention to the resolution adopted on the 15th instant [page 168], that resolution No. 19 of the Finance Committee's report should be now considered.

Gen. Smuts moved: That the clause read in terms of the Resolution of the Finance Committee, viz.:—

90. A Provincial Revenue Fund shall be formed in every Province into which shall be paid all revenues raised by or accruing to the Provincial Council and all moneys paid over by the Governor-General-in-Council to the Provincial Council. Such fund shall be appropriated by the Provincial Council by ordinance for the purposes of the provincial administration generally, or, in the case of moneys paid over by the Governor-General-in-Council for particular purposes then for such purposes, but no such ordinance shall be passed by the Provincial Council unless the Administrator shall have first recommended to the Council to make provision for the specific service for which the appropriation is to be made. No money shall be issued from the Provincial Revenue Fund except in accordance with such appropriation and under warrant signed by the Administrator.

Mr. Jagger moved: To add at the end "and countersigned by the Auditor of the Province."

Discussion ensued.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

3. Minutes of previous meeting confirmed.

4. Consideration of draft South Africa Act continued.

Gen. Smuts moved: To omit the last words of the proposed new clause "and under warrant signed by the Administrator."

Agreed to.

With leave of the Convention,

The amendment proposed by Mr. Jagger was withdrawn.

Mr. Walton moved: To insert at the beginning "Subject to the provisions of this Act."

Mr. Browne moved: To add "provided that until the expiration of one month after the first meeting of the Provincial Council the Administrator may expend such monies as may be necessary for the services of the Province."

Agreed to.

With leave of the Convention,

The amendment proposed by Mr. Walton was withdrawn.

* Subsequently amended—see page 226. G.R.H.

The amendment proposed by Gen. Smuts, as amended, put and agreed to, and the original Clause was negatived.

*The Clause as agreed to reads as follows:—

90. A Provincial Revenue Fund shall be formed in every Province into which shall be paid all revenues raised by or accruing to the Provincial Council, and all monies paid over by the Governor-General-in-Council to the Provincial Council. Such fund shall be appropriated by the Provincial Council by ordinance for the purposes of the provincial administration generally, or, in the case of monies paid over by the Governor-General-in-Council for particular purposes, then for such purposes, but no such ordinance shall be passed by the Provincial Council unless the Administrator shall have first recommended to the Council to make provision for the specific service for which the appropriation is to be made, No money shall be issued from the Provincial Revenue Fund except in accordance with such appropriation: provided that until the expiration of one month after the first meeting of the Provincial Council the Administrator may expend such monies as may be necessary for the services of the Province.

Mr. Watt moved: After the heading "Miscellaneous" to insert "provisions relating to the Provinces."

Agreed to.

On Clause Ninety-four,

Dr. Beck moved: To omit "varied or withdrawn" and substitute "amended or repealed."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Mr. Malan moved: To omit all the words after "withdrawn."

Upon which the Convention divided.

"AYES"—6.	Farrar, Sir G. H.
	Fischer, Mr.
Greene, Col.	Fitzpatrick, Sir J. P.
Hyslop, Mr.	Hertzog, Gen.
Malan, Mr.	Hull, Mr.
Moor, Mr.	Jagger, Mr.
Smythe, Mr.	Jameson, Dr.
Watt, Mr.	Lindsay, Mr.
	Maasdorp, Mr.
	Merriman, Mr.
"NOES"—23.	Sauer, Mr.
	Smartt, Dr.
Beck, Dr.	Smuts, Gen.
Botha, Gen.	Stanford, Col.
Browne, Mr.	Steyn, Mr.
Burger, Gen.	Van Heerden, Mr.
De la Rey, Gen.	Walton, Mr.
De Villiers, Sir J. H.	

* Subsequently amended—see page 226. G.R.H.

The amendment accordingly negatived.

Clause agreed to without amendment.

On Clause Ninety-four (a),

Gen. Smuts moved: That the consideration of this Clause stand over*

Agreed to.

On Clause Ninety-eight,

Gen. Smuts moved: That the Clause read as follows, viz.:

98. (i) The several Supreme Courts of the Cape of Good Hope, Natal and the Transvaal and the High Court of the Orange River Colony shall, on the establishment of the Union, become Provincial Divisions of the Supreme Court of South Africa within their respective Provinces.

(ii) The Court of the Eastern Districts of the Cape of Good Hope, the High Court of Griqualand, the High Court of Witwatersrand and the several Circuit Courts shall become local divisions of the Supreme Court of South Africa within the respective areas of their jurisdiction as existing at the establishment of the Union.

(iii) The said provincial and local divisions referred to in this Act as Superior Courts, shall, in addition to any original jurisdiction exercised by the corresponding Courts of the Colonies at the establishment of the Union, have jurisdiction in all matters.

(a) in which the Government of the Union or a person suing or being sued on behalf of such Government is a party,

(b) in which the validity of any Provincial Ordinance shall come into question.

(iv) Unless and until Parliament shall otherwise provide the said Superior Courts shall also have the same jurisdiction in matters affecting the validity of elections of members of the House of Assembly and the Provincial Councils as the corresponding Courts of the Colonies had at the establishment of the Union in regard to Parliamentary elections in such Colonies respectively.

Mr. Hull moved, as an amendment to the above: To add a new sub-section (v):

(v) The areas within which the several provincial and local divisions of the Supreme Court of South Africa shall exercise jurisdiction may be from time to time altered by proclamation by the Governor-General-in-Council.

After discussion,

This amendment was put and negatived.

The amendment proposed by Gen. Smuts, in substitution of the original clause, was then put and agreed to.

On Clause One Hundred and Five,

Gen. Smuts moved: After "Courts" to omit "of the respective provinces."

Agreed to.

* See page 245. G.R.H.

*Clause, as amended, put and agreed to.

On Clause One Hundred and Eight,

Gen. Smuts moved: To omit "in such divisions respectively" and substitute "therein."

Agreed to.

†Clause, as amended, put and agreed to.

Clause One Hundred and Nine put.

Gen. Smuts moved: That the consideration of this Clause stand over.‡

Agreed to.

Clause One Hundred and Thirteen put.

Discussion ensued.

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

5. Consideration of draft South Africa Act continued.

Clause One Hundred and Thirteen agreed to.

On Clause One Hundred and Fifteen,

Mr. Steyn moved: In sub-section (i) after "provincial" to insert "or local."

After discussion,

The amendment was put and negatived.

Gen. Smuts moved: To omit "Supreme" after "any" and substitute "Superior;" to omit "or the High Court of the Orange River Colony;" and to omit "respective provincial" and substitute "corresponding."

Agreed to.

Gen. Smuts moved: In sub-section (ii) to omit "the Supreme" after "in" and substitute "any Superior"; to omit "or in the High Court of the Orange River Colony"; and to omit "provincial division" and substitute "divisions."

Agreed to.

§ Clause, as amended, put and agreed to, viz.:—

115. (i) The laws regulating the admission of advocates and attorneys to practise before any Superior Court of a Colony shall *mutatis mutandis* apply to the admission of advocates and attorneys to practise in the corresponding divisions of the Supreme Court of South Africa.

(ii) All advocates and attorneys entitled at the establishment of the Union to practise in any Superior Court of any Colony shall be entitled to practise as such in the corresponding divisions of the Supreme Court of South Africa.

(iii) All advocates and attorneys entitled to practise before any provincial division of the Supreme Court of South Africa shall be entitled to practise before the Appellate Division of such Supreme Court.

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* Subsequently further amended see pages 226-227.
† Subsequently further amended see page 227.
‡ See page 245.
§ Subsequently further amended see pages 227 and 237. G.R.H.

On Clause One Hundred and Sixteen,

Mr. Watt moved: To add at the end, "and all judgments and orders of any Superior Court of the Colonies given or made before the establishment of the Union shall have the same force and effect as if they had been given or made by the corresponding division of the Supreme Court of South Africa."

Agreed to.

Clause, as amended, put and agreed to.

6. *Mr. Malan* moved: That the further consideration of the Draft South Africa Act be suspended pending the consideration of the Second Report of the Finance Committee.

Agreed to.

7. *Mr. Sauer*, as Chairman, brought up the Second Report of the Committee appointed by resolution of the Convention dated the 7th December, 1908 [page 114], to make recommendations in regard to Finance and Trade, as follows:—

Your Committee, having reconsidered Resolutions Nos. 7, 16, 17 and 21 of their Revised First Report referred back to them by the Convention [pages 167-168, 170 and 173-174] beg to recommend the following in lieu thereof:—

7. All stocks, cash, bankers' balances and securities for money belonging to each Colony at the establishment of the Union shall be the property of the Union. Provided that the balances of any funds raised at the date of the Union by law for any special purposes, in any of the Colonies, shall be deemed to have been appropriated by Parliament for the special purposes for which they have been provided.

16. Every proposal for the construction of any port or harbour works or of any line of railway before being submitted to Parliament shall be considered by the Board who shall report thereon and shall advise whether the proposed works or line of railway should or should not be constructed. If any such works or line shall be constructed contrary to the advice of the Board, and if the Board are of opinion that the revenue derived from the operation of such works or line will be insufficient to meet the costs of working and maintenance and of interest on the capital invested therein they shall frame an estimate of the annual loss which in their opinion will result from such operation. Such estimate shall be examined by the Controller and Auditor-General, and when approved by him the amount thereof shall be paid over annually from the Consolidated Revenue Fund to the Railway and Harbour Fund; provided that if in any year the actual loss incurred as calculated by the Board and certified to by the Controller and Auditor-General is less than the estimate framed by the Board the amount paid over in respect of that year shall be reduced accordingly so as not to exceed the actual loss incurred.

In calculating the loss arising from the operation of any such work or line the Board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

17. If the Board shall be required by the Governor-General-in-Council or under any Act of Parliament to provide any services or facilities either gratuitously or at a rate of charge less than is ordinarily exacted in respect of such services or facilities the Board shall at the end of each financial year present to Parliament an account approved by the Controller and Auditor-General showing as nearly as can be estimated the amount of the loss incurred by reason of the provision of such services and facilities and such amount shall be paid out of the Consolidated Revenue Fund to the Railway and Harbour Fund.

21. In the case of any town which at the establishment of the Union is the capital of any of the Colonies, and which is not selected as the Capital of the Union, there shall be paid from the Consolidated Revenue Fund to the Municipal Council of such town for a period of twenty-five years a grant of two per cent. per annum on the amount of the municipal debt of such town as at 31st March, 1909. One-half of such grant shall be applied to the redemption of the municipal debt of such town.

For the purpose of this Clause Cape Town shall be deemed to include the Municipalities of Cape Town, Green Point and Sea Point, Woodstock, Mowbray, Rondebosch, Claremont and Wynberg, and any sum paid under this section in respect of Cape Town shall be paid to the Councils of those Municipalities.

Provided that the debts of the several municipalities shall not exceed the following amounts:—

Cape Town and Suburbs	£4,450,000
Maritzburg	£1,219,000
Pretoria	£1,000,000
Bloemfontein	£ 868,000

Mr. Sauer moved: That the Report be now considered.

Agreed to.

On Resolution No. 7 [page 186],

Mr. Hull moved: To omit the proviso and substitute "Provided that where in any of the Colonies any moneys have been raised by a loan authorised by law but have not been wholly expended any balance remaining unexpended at the establishment of the Union shall be deemed to have been appropriated by Parliament for the special purposes for which such loan was authorised."

Upon which the Convention divided:

"AYES"—12.	"NOES"—16.
Botha, Gen.	Beck, Dr.
Burger, Gen.	Browne, Mr.
De la Rey, Gen.	Fischer, Mr.
De Villiers, Sir J. H.	Hertzog, Gen.
Farrar, Sir G. H.	Jagger, Mr.
Greene, Col.	Jameson, Dr.
Hull, Mr.	Maasdorp, Mr.
Hyslop, Mr.	Malan, Mr.
Lindsay, Mr.	Merriman, Mr.
Moor, Mr.	Sauer, Mr.
Smuts, Gen.	Smartt, Dr.
Watt, Mr.	Smythe, Mr.
	Stanford, Col.
	Steyn, Mr.
	Van Heerden, Mr.
	Walton, Mr.

The amendment accordingly negatived.

Resolution agreed to without amendment.

Resolution No. 16 [pages 186-187] put and agreed to.

On Resolution No. 17 [page 187],

Mr. Malan moved: To omit "approved" and substitute "audited."

After discussion,

With leave of the Convention,

The amendment was withdrawn.

Dr. Smartt moved: To omit "is ordinarily exacted in respect of such services or facilities," and to substitute "cost."

Col. Stanford moved: To omit the words from "and such amount" to the end.

Mr. Malan moved: To omit the words after "amount of" down to "and such," and substitute "expenditure incurred in respect of such services or facilities in excess of the railway revenue, if any."

Mr. Hull moved: To omit "less than is ordinarily exacted in respect," and substitute "which is insufficient to meet the costs involved in the provision."

After discussion,

The amendment proposed by Mr. Hull was put and agreed to.

With leave of the Convention,

The amendments proposed by Mr. Malan and Dr. Smartt were withdrawn, and the amendment proposed by Col. Stanford put and negatived.

Resolution, as amended, put, and the Convention divided:

"AYES," 19.

Botha, Gen.
Browne, Mr.
Burger, Gen.
De la Rey, Gen.
De Villiers, Sir J. H.
Farrar, Sir G. H.
Fitzpatrick, Sir J. P.
Greene, Col.
Hull, Mr.
Hyslop, Mr.
Jagger Mr.
Jameson, Dr.
Lindsay, Mr.
Maasdorp, Mr.
Sauer, Mr.
Smuts, Gen.
Smythe, Mr.
Van Heerden, Mr.
Watt, Mr.

"NOES," 10.

Beck, Dr.
Fischer, Mr.
Hertzog, Gen.
Malan, Mr.
Merriman, Mr.
Moor, Mr.
Smartt, Dr.
Stanford, Col.
Steyn, Mr.
Walton, Mr.

The resolution accordingly agreed to as follows:—

17. If the Board shall be required by the Governor-General-in-Council or under any Act of Parliament to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities the Board shall at the end of each financial year present to Parliament an account approved by the Controller and Auditor-General, showing as nearly as can be ascertained the amount of the loss incurred by reason of the provision of such services and facilities, and such amount shall be paid out of the Consolidated Revenue Fund to the Railway and Harbour Fund.

On Resolution No. 21 [page 187].

Mr. Hull moved: That the resolution read as follows:—

21. The Convention recognises the principle of compensating on a liberal scale the present capitals of the Colonies for any loss which may be caused in the form of diminution of prosperity or decreased rateable value by reason of the decision of the Convention as to the situation of the Union Capital.

In view of the impossibility of determining at the present time the amount of such loss and the extent to which the towns in question may be benefitted by administrative and other changes consequent on the establishment of Union, the Convention recommends to Parliament that the Commission which is to inquire into the financial relations between the Union and the Provinces should be instructed to inquire into this matter and to report what compensation, if any, should be paid by the Union Government to the towns in question.

Discussion ensued.

Sir George Farrar moved: That the debate be adjourned until to-morrow.

Upon which the Convention divided:

"AYES," 15.	"NOES," 14.
Browne, Mr.	Beck, Dr.
Burger, Gen.	Botha, Gen.
De Villiers, Sir J. H.	De la Rey, Gen.
Farrar, Sir G. H.	Fitzpatrick, Sir J. P.
Fischer, Mr.	Greene, Col.
Hertzog, Gen.	Hyslop, Mr.
Hull, Mr.	Jagger, Mr.
Lindsay, Mr.	Jameson, Dr.
Maasdorp, Mr.	Malan, Mr.
Merriman, Mr.	Sauer, Mr.
Moor, Mr.	Smartt, Dr.
Smuts, Gen.	Smythe, Mr.
Steyn, Mr.	Stanford, Col.
Van Heerden, Mr.	Watt, Mr.
Walton, Mr.	

Motion accordingly agreed to.

8. *Gen. Smuts* moved: That the Finance Resolutions already passed and those clauses of the Draft South Africa Act which have been ordered to stand over except those relating to the Senate be referred to the drafting Committee.

Agreed to.

9. On the motion of Sir George Farrar, the Convention adjourned at five minutes past four o'clock p.m.

CAPE TOWN, *Thursday*, 21st *January*, *1909*.

Ten o'clock a.m.

1. All the members were present, except Sir William Milton, Gen. De Wet and Gen. De la Rey.

2. *Col. Greene* moved: That the report of the Committee on the Union Capital be considered to-morrow..

Agreed to.

3. Consideration of Second Report of Finance Committee [page 186-187] resumed.

The President stated that when this report was under consideration yesterday Resolution No. 21 [page 187] had been put, upon which an amendment had been moved by Mr. Hull that the resolution read as follows:—

21. The Convention recognises the principle of compensating on a liberal scale the present capitals of the Colonies for any loss which may be caused in the form of diminution of prosperity or decreased rateable value by reason of the decision of the Convention as to the situation of the Union Capital.

In view of the impossibility of determining at the present time the amount of such loss and the extent to which the towns in question may be benefitted by administrative and other changes consequent on the establishment of Union, the Convention recommends to Parliament that the Commission which is to inquire into the financial relations between the

Union and the Provinces should be instructed to inquire into this matter and to report what compensation, if any, should be paid by the Union Government to the towns in question.

Gen. Smuts moved: That the further consideration of this report be adjourned until to-morrow as the first order of the day.

Agreed to.

4. Consideration of draft South Africa Act resumed.

The President stated that when the draft Act was under consideration yesterday Clause One Hundred and Sixteen had been agreed to.

Gen. Smuts moved: That the consideration of Clause One Hundred and Seventeen stand over.*

Agreed to.

On Clause One Hundred and Twenty,

Mr. Malan moved: To omit "of European descent."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Clause agreed to without amendment.

On Clause One hundred and Twenty-one,

Mr. Walton moved: To omit "Attorney-General" and substitute "Crown Prosecutor."

Mr. Fischer moved: To omit "and styled the Attorney-General of the Province."

After discussion,

With leave of the Convention,

These amendments were withdrawn.

Mr. Watt moved: To add at the end "who shall also discharge such other duties as may be assigned to him by the Governor-General-in-Council."

Agreed to.

Clause, as amended, put and agreed to.

One Clause One Hundred and Twenty-two,

Gen. Smuts moved: To omit "several."

Discussion ensued.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

5. Minutes of previous meeting confirmed.

6. Consideration of draft South Africa Act continued.

Gen. Smuts moved: To omit "officers of the Union" and substitute "subject to the control and authority of the Governor-General-in-Council."

After discussion,

With leave of the Convention,

The last amendment was withdrawn.

Gen. Smuts then moved: To insert at the commencement "Subject to the provisions of the next succeeding section."

Mr. Fischer moved: To omit all the words after "shall" and substitute "pending the report of the Commission in the

* Subsequently negatived see page 218. G.R.H.

next succeeding section referred to retain their positions in the Province which they occupied in the corresponding Colony with the rights and subject to the regulations then existing in such Colony, and so many of such officers as the Governor-General-in-Council may deem necessary shall meanwhile as and when required be assigned for service in the Union."

This amendment having been put and negatived,

The two amendments proposed by Gen. Smuts were put and agreed to.

Clause, as amended, put and agreed to, viz.:—

122. Subject to the provisions of the next succeeding section, all officers of the public service of the Colonies shall at the establishment of the Union become officers of the Union.

On Clause One Hundred and Twenty-three,

Mr. Malan moved: In sub-section (ii) to omit "and such officers on being so transferred shall become officers of the Province."

Agreed to.

Col. Greene moved: In sub-section (i) to omit "transfer" and substitute "assignment"; in sub-section (ii) to omit "transfer" and substitute "assign"; to omit "assigned" and substitute "reserved or delegated," and to omit "transfer" and substitute "assignment."

Agreed to.

*Clause, as amended, put and agreed to, viz.:—

123. (i) As soon as possible after the passing of this Act the Governor-General-in-Council shall appoint a Public Service Commission to make recommendations for such reorganisation and readjustment of the departments of the public service as may be necessary. The Commission shall also make recommendations in regard to the assignment of officers to the several provinces.

(ii) The Governor-General shall, after such Commission has reported, assign from time to time to each province such officers as may be necessary for the proper discharge of the services reserved or delegated to it. Pending the assignment of such officers the Governor-General-in-Council may place at the disposal of the provinces the services of such officers of the Union as may be necessary.

(iii) The provisions of this section shall not apply to any service or department under the control of the Railway and Harbour Board, or to any person holding office under the Board.

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

7. Consideration of Draft South Africa Act continued.

On the motion of Col. Greene,

The Convention reverted to Clause Eighty-four.

Col. Greene moved: To omit "transferred" and substitute "assigned."

Subsequently further amended—see pages 227 and 233.—G.R.H.

Agreed to.

On Clause One Hundred and Twenty-five,

Mr. Merriman moved: After "Union or" to insert "assigned to that."

Agreed to.

Clause, as amended, put and agreed to.

On Clause One Hundred and Twenty-six,

Mr. Merriman moved: After "Union or" to insert "assigned to that."

Agreed to.

Clause, as amended, put and agreed to.

On Clause One Hundred and Twenty-seven,

Col. Greene moved: To omit "no" before "officer"; to make "officer" in the plural; after "shall" to insert "not," and to omit "his" and substitute "their."

Agreed to.

*Clause, as amended, put and agreed to.

On Clause One Hundred and Twenty-eight,

Gen. Smuts moved: After "union or" to insert "assigned to that."

Agreed to.

*Clause, as amended, put and agreed to.

On Clause One hundred and Twenty-nine,

Col. Greene moved: To omit "likewise."

Agreed to.

Clause, as amended, put and agreed to.

Gen. Smuts moved: To omit the heading "Treaty Rights."

Agreed to.

On Clause One Hundred and Thirty-three,

Mr. Merriman moved: To omit "the territories administered by the British South Africa Company," and substitute "in the last preceding section mentioned"; and to omit "of" and substitute "belonging to."

Agreed to.

Clause, as amended, put and agreed to.

On Clause One Hundred and Thirty-four,

Mr. Hyslop moved: After "law" to insert "passed by an absolute majority of members of each House of Parliament."

Mr. Fischer moved: That this clause† be referred to the Drafting Committee.

Agreed to.

On the Schedule,

On sub-section (12), *Mr. Jagger* moved: To add "less five per cent. to cover the cost of collection."

Dr. Smartt moved: That this sub-section read as follows:

12. There shall be paid into the Treasury of the Union all duties of customs levied on dutiable articles imported into and consumed in the Territories, and there shall be paid out of the Treasury annually towards the cost of administration

* Subsequently further amended—see page 227.

† This clause was not reported upon by the Committee, but was subsequently put to the Convention and agreed to—see page 219. It was afterwards further considered—see page 220.—G.R.H.

of each territory a sum in respect of such duties which shall be computed as follows:

(i) For the five completed financial years next succeeding the taking effect of this Act a sum equal to the average of the customs revenue of such territory for the three completed financial years last preceding the taking effect of this Act.

(ii) At the end of the first period of five completed financial years after the taking effect of this Act, and at the end of each succeeding period of five completed financial years, an estimate shall be made by the Customs Department of the Union of the average of the quantity of dutiable goods consumed in such territory and of the total sums paid into the Treasury of the Union in respect of dutiable goods so consumed for the last completed period of five years; and the amount so estimated by the Customs Department of the Union as being the average sum paid into the Treasury of the Union in respect of dutiable goods consumed in such territory during the last completed period of five years shall be the sum payable annually to such territory during the next succeeding period of five years.

After discussion,

This amendment was put and negatived.

The amendment proposed by Mr. Jagger put, and the Convention divided:—

"AYES," 7.	Fischer, Mr.
	Farrar, Sir G. H.
Beck, Dr.	Fitzpatrick, Sir J. P.
Hyslop, Mr.	Greene, Col.
Jagger, Mr.	Hertzog, Gen.
Malan, Mr.	Hull, Mr.
Moor, Mr.	Jameson, Dr.
Smythe, Mr.	Lindsay, Mr.
Watt, Mr.	Maasdorp, Mr.
	Merriman, Mr.
	Sauer, Mr.
"NOES," 21.	Smartt, Dr.
	Smuts, Gen.
Botha, Gen.	Stanford, Col.
Browne, Mr.	Steyn, Mr.
Burger, Gen.	Van Heerden, Mr.
De Villiers, Sir J. H.	Walton, Mr.

The amendment accordingly negatived.

*Sub-section agreed to without amendment.

On Sub-section (14),

Mr. Malan moved: That the consideration of this sub-section stand over.

This motion was put and negatived.

Dr. Smartt moved: That the sub-section read as follows:—

* Subsequently amended—see page 228. G.R.H.

(14.) Basutoland shall be preserved to the Basutos, the tribal reserves in the Bechuanaland Protectorate shall be preserved to the Bechuana tribes, and the land allotted to the natives in the partition of Swaziland between them and the concessionaires shall be preserved to the Swazis.

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Sub-section agreed to without amendment.

On Sub-section (22),

Gen. Hertzog moved: To transpose the words "as existing on the 16th December, 1908," to follow after the word "rights."

Agreed to.

Sub-section, as amended, put and agreed to.

8. On the motion of Mr. Merriman, the Convention adjourned at five minutes to four o'clock p.m. until to-morrow at half-past eleven o'clock a.m.

CAPE TOWN, *Friday*, 22ND *January, 1909.*

Half-past eleven o'clock a.m.

1. All the members were present, except Sir William Milton.

2. Minutes of previous meeting confirmed.

3. *Mr. Hull* moved: That it be an instruction to the Prime Ministers to have the draft South Africa Act revised by their respective draughtsmen, jointly.

After discussion,

The motion was put and agreed to.

4. Consideration of Second Report of Finance Committee [pages 186-187] resumed.

The President stated that when this report was under consideration yesterday Resolution No. 21 [page 187] had been put, upon which an amendment had been moved by Mr. Hull, that the resolution read as follows:

21. The Convention recognises the principle of compensating on a liberal scale the present capitals of the Colonies for any loss which may be caused in the form of diminution of prosperity or decreased rateable value by reason of the decision of the Convention as to the situation of the Union capital.

In view of the impossibility of determining at the present time the amount of such loss and the extent to which the towns in question may be benefitted by administrative and other changes consequent on the establishment of Union, the Convention recommends to Parliament that the Commission which is to inquire into the financial relations between the Union and the Provinces should be instructed to inquire into this matter, and to report what compensation, if any, should be paid by the Union Government to the towns in question.

The President put the amendment, and the Convention divided:

"AYES," 10.	
Botha, Gen.	De Wet, Gen.
De la Rey, Gen.	Fischer, Mr.
De Villiers, Sir J. H.	Greene, Col.
Farrar, Sir G. H.	Hertzog, Gen.
Fitzpatrick, Sir J. P.	Hyslop, Mr.
Hull, Mr.	Jagger, Mr.
Jameson, Dr.	Maasdorp, Mr.
Lindsay, Mr.	Malan, Mr.
Smartt, Dr.	Merriman, Mr.
Walton, Mr.	Moor, Mr.
	Sauer, Mr.
"NOES," 20.	Smuts, Gen.
	Smythe, Mr.
	Stanford, Col.
Beck, Dr.	Steyn, Mr.
Browne, Mr.	Van Heerden, Mr.
Burger, Gen.	Watt, Mr.

The amendment accordingly negatived.

Dr. Beck moved: After "Municipalities" to insert "respectively."

Sir George Farrar moved: That the resolution read as follows:—

21. In order to compensate for any loss sustained by any town which at the establishment of the Union is the capital of any of the Colonies in respect of decreased rateable value by reason of the capital of the Union being placed elsewhere, there shall be paid from the Consolidated Revenue Fund to the Municipal Council of such town for a period not exceeding twenty-five years a grant of two per cent. per annum on the amount of the municipal debt of such town. One-half of such grant shall be applied to the redemption of the municipal debt of such town.

For the purpose of this Clause Cape Town shall be deemed to include the municipalities of Cape Town, Green Point and Sea Point, Woodstock, Mowbray, Rondebosch, Claremont and Wynberg, and any sum paid under this section in respect of Cape Town shall be paid to the Councils of those municipalities.

Provided that the debts of the several municipalities shall not exceed the following amounts:—

Cape Town and suburbs..	£4,450,000
Maritzburg	£1,219,000
Pretoria	£1,000,000
Bloemfontein	£868,000

Provided that at any time after the expiration of ten years the Governor-General-in-Council, with the approval of Parliament, may after due inquiry withdraw or reduce the grant to all or any of the towns in question.

Gen. Hertzog moved, as an amendment to Sir George Farrar's amendment: To omit "in respect of decreased rateable value."

Mr. Lindsay moved: That the resolution read as follows:—

21. In the event of any depreciation in the rateable value of land and the value of other municipal assets within the municipality of any town which at the establishment of the Union is the capital of any of the Colonies, and is not selected as the capital of the Union reasonable compensation shall be made for any such depreciation.

For the purpose of ascertaining the amount of such depreciation the municipal assessment roll and valuation of other municipal reproductive assets and undertakings of such capitals for the year 1908 shall be taken as the basis of value; and for every year, not exceeding twenty years, after the establishment of Union in which such value falls below that of the year 1908 relief shall be given by Parliament subject to such regulations as it may make in that behalf to an extent (not exceeding two per cent. of their municipal debts) as shall be sufficient to restore the municipal revenue of such capitals to that for the year 1908.

Of the contribution so made, one per cent. shall be applied towards sinking fund, and one per cent. towards interest on the municipal debt.

With leave of the Convention,

Sir George Farrar amended his amendment by omitting "respect of" and substituting "the form of diminution of prosperity or"; after "town" by inserting "as ascertained by the Auditor-General of the Union": and by inserting "respectively" after "municipalities."

After discussion,

With leave of the Convention,

The amendment proposed by Gen. Hertzog was withdrawn.

The President put the question: That the original resolution be omitted,

Upon which the Convention divided:

"AYES," 18.	Van Heerden, Mr.
	Walton, Mr.
Botha, Gen.	
Burger, Gen.	
De la Rey, Gen.	"NOES," 12.
De Wet, Gen.	
Farrar, Sir G. H.	Beck, Dr.
Fitzpatrick, Sir J. P.	Browne, Mr.
Hertzog, Gen.	De Villiers, Sir J. H.
Hull, Mr.	Fischer, Mr.
Jameson, Dr.	Greene, Col.
Lindsay, Mr.	Hyslop, Mr.
Maasdorp, Mr.	Jagger, Mr.
Malan, Mr.	Moor, Mr.
Merriman, Mr.	Sauer, Mr.
Smartt, Dr.	Smythe, Mr.
Smuts, Gen.	Stanford, Col.
Steyn, Mr.	Watt, Mr.

The resolution accordingly negatived, and the amendment proposed by Sir George Farrar became the main question, and the amendment proposed by Dr. Beck dropped.

With leave of the Convention,

The amendment proposed by Mr. Lindsay was withdrawn.

Mr. Browne moved: To omit "not exceed" and substitute "be treated as not exceeding."

Agreed to.

Mr. Hyslop moved: To omit "respectively" and substitute "in proportion to their respective debts."

Agreed to.

The amendment proposed by Sir George Farrar, as amended, was then put and agreed to, as follows:—

21. In order to compensate for any loss sustained by any town which at the establishment of the Union is the capital of any of the Colonies in the form of diminution of prosperity or decreased rateable value by reason of the capital of the Union being placed elsewhere, there shall be paid from the Consolidated Revenue Fund to the Municipal Council of such town for a period not exceeding twenty-five years a grant of two per cent. per annum on the amount of the municipal debt of such town. One-half of such grant shall be applied to the redemption of the municipal debt of such town as ascertained by the Auditor-General of the Union.

For the purpose of this Clause Cape Town shall be deemed to include the municipalities of Cape Town, Green Point and Sea Point, Woodstock, Mowbray, Rondebosch, Claremont and Wynberg, and any sum paid under this section in respect of Cape Town shall be paid to the Councils of those municipalities in proportion to their respective debts.

Provided that the debts of the several municipalities shall be treated as not exceeding the following amounts:—

Cape Town and Suburbs	£4,450,000
Maritzburg	£1,219,000
Pretoria	£1,000,000
Bloemfontein	£868,000

Provided that at any time after the expiration of ten years the Governor-General-in-Council with the approval of Parliament may, after due inquiry, withdraw or reduce the grant to all or any of the towns in question.

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

5. Report of Committee on the Union Capital to be considered.

The President stated that this report would be found on pages 172 and 173 of the proceedings.

Mr. Steyn moved: That the decision as to the future capital of South Africa be left to the Union Parliament.

Gen. Botha asked the President whether the subject of a resolution can be rescinded if any member objects?

The President ruled: On the 12th instant it was resolved that in the consideration of the draft South Africa Act any amendment of the resolutions already passed may be moved in the ordinary way, and Clause 117 of the draft Act provides, in blank, for the site of the Union capital. But on the 9th December last a resolution was agreed to: "That it is desirable for the Convention to settle the Capital of the Union." These words contain a clear expression of opinion as to the course to be pursued in regard to the question now under consideration, and I must therefore rule that if any member objects to the motion proposed by Mr. Steyn, which is an obvious contradiction of the resolution already adopted by the Convention, it is my duty to rule that it is out of order, and cannot be put.

The motion proposed by Mr. Steyn was accordingly withdrawn.

Mr. Malan moved: That the consideration of this report, as well as the decision upon the site of the Union and Provincial Capitals, stand over until the draft South Africa Act has in other respects been completed.

After discussion,

This motion was put and negatived.

Gen. Hertzog moved: That the method of voting for the Union Capital be that proposed in paragraph I. of the Committee's report.

Gen. Botha moved, as an amendment: To omit "paragraph I." and substitute "paragraph II."

Discussion ensued.

On the motion of Dr. Jameson,

The debate was adjourned until to-morrow.

6. On the motion of Mr. Sauer, the Convention adjourned at ten minutes to four o'clock p.m.

CAPE TOWN, *Saturday*, 23RD *January*, *1909*.

Ten o'clock a.m.

1. All the members were present, except Sir William Milton.

2. Consideration of report of Committee on the Union Capital resumed.

The President stated that this report would be found on pages 172-173 of the proceedings, and that when the report was under consideration yesterday, the question before the Convention was a motion by Gen. Hertzog: That the method of voting for the Union Capital be that proposed in paragraph I. of the Committee's report.

Upon which an amendment had been moved by Gen. Botha:

To omit "paragraph I." and substitute "paragraph II."

Discussion ensued.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

3. Minutes of previous meeting amended in two particulars and confirmed.

4. *Gen. Hertzog* moved: That the Convention adjourn today at half-past twelve o'clock p.m.

After discussion,

With leave of the Convention,

This motion was withdrawn.

5. Consideration of report of Committee on Union Capital, continued.

Discussion resumed.

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

6. *The President*, as Chairman, brought up the report of the Committee, appointed by resolution of the Convention dated the 18th December, 1908 [page 143], to draft the South Africa Act, on Clauses 31, 38, 39, 42 and 64 referred to them [pages 174 and 190], as well as on the new clauses on Finance, as follows:—

The Committee recommend that the subjoined clauses be amended to read as follows:—

Clause 31.

31. The number of members to be elected in each Province as provided in section 30 shall be increased from time to time as may be necessary in accordance with the following provisions:—

(i) The quota of the Union shall be obtained by dividing the total number of European male adults in the Union not being members of His Majesty's regular forces on full pay, as ascertained at the census of 1904 by the total number of members of the House of Assembly as constituted at the establishment of the Union.

(ii) In 1911 and every five years thereafter a census of the European population of the Union shall be taken for the purposes of this Act.

(iii) After every such census the number of European male adults in each province shall be compared with the number of European male adults as ascertained at the census of 1904, and in the case of any province where an increase is shown as compared with the Census of 1904, equal to the quota of the Union or any multiple thereof, the number of members allotted to such province by virtue of the provisions of the last preceding section shall be increased by an additional member or an additional number of members equal to such multiple, as the case may be.

(iv) Notwithstanding anything herein contained, no additional member shall be allotted to any province until the total number of European male adults in such province exceeds the quota of the Union multiplied by the number of members

allotted to such province for the time being, and thereupon additional members shall be allotted to such province in respect only of such excess.

(v) As soon as the number of members of the House of Assembly to be elected in the original provinces in accordance with the preceding sub-sections reaches the total of 150, such total shall not be further increased unless and until Parliament otherwise provides; and notwithstanding anything in this and the last preceding sections, the distribution of members among the provinces shall be such that the proportion between the number of members to be elected at any time in each province and the number of European male adults in such province as ascertained at the last preceding census shall as far as possible be identical throughout the Union.

(vi) "Adult males" in this Act shall be taken to mean males of 21 years of age or upwards.

Clause 38.

38. The Governor-General-in-Council shall frame regulations prescribing the method of voting and of transferring and counting votes, and the duties of returning officers in connection therewith in all cases in which elections taking place after the establishment of the Union are by this Act directed to be according to the principle of proportional representation with the single transferable vote, and such regulations or any amendments thereof, after being duly promulgated, shall have full force and effect unless and until Parliament shall otherwise provide.

Clause 39.

39. Between the date of the passing of this Act and the date fixed for the establishment of the Union the Governor-in-Council of each Colony shall nominate a Judge of any of the Supreme or High Courts of the several Colonies, and the Judges so nominated shall upon acceptance by them respectively of such nomination form a Joint Commission, without any further appointment, for the purpose of the first division of the provinces into electoral divisions. The High Commissioner of South Africa shall forthwith convene a meeting of such Commission at such time and place in one of the said Colonies as he shall fix and determine. At such meeting the Commissioners shall elect one of their number as Chairman of such Joint Commission. They shall thereupon proceed with the discharge of their duties under this Act, and may appoint persons in any province to assist them or to act as assessors to the Commission or with individual members thereof for the purpose of inquiring into matters connected with the duties of the Commission. All monies required for the payment of the expenses of such Commission in any Colony shall be provided by the Governor-in-Council of such Colony. In case of the death, resignation or other disability of any of the Commissioners the Governor-in-Council who nominated him shall forthwith nominate another Judge to fill the vacancy.

Clause 42.

42. As soon as may be after every quinquennial census the Governor-General-in-Council shall appoint a Commission consisting of three Judges of the Supreme Court of South Africa to carry out any redivision which may have become necessary as between the different electoral divisions in each province and, subject to the provisions of section 31, to provide for the allocation of the number of members to which such province may have become entitled under the provisions of this Act. In carrying out such redivision and allocation the Commission shall have the same powers and proceed upon the same principles as are by this Act provided in regard to the original division.

Clause 64.

64. If the House of Assembly passes any bill and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, and if the House of Assembly in the next session again passes the bill with or without any amendments which have been made or agreed to by the Senate and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Assembly will not agree, the Governor-General may during that session convene a joint sitting of the members of the Senate and House of Assembly.

The members present at any such joint sitting may deliberate and shall vote together upon the bill as last proposed by the House of Assembly and upon amendments, if any, which have been made therein by one House of Parliament and not agreed to by the other, and any such amendments which are affirmed by a majority of the total number of members of the Senate and House of Assembly present at such sitting shall be taken to have been carried, and if the Bill with the amendments, if any, is affirmed by a majority of the members of the Senate and House of Assembly present at such sitting it shall be taken to have been duly passed by both Houses of Parliament. Provided that if the Senate shall reject or fail to pass any bill dealing with the appropriation of revenue or monies for the public service such joint sitting may be convened during the same session in which the Senate so rejects or fails to pass such bill.

The Committee further recommends the following clauses relating to Finance to follow Clause 116:

1. All revenues, from whatever source arising, over which the several Colonies have at the establishment of the Union power of appropriation shall vest in the Governor-General-in-Council. There shall be formed a Railway and Harbour Fund, into which shall be paid all revenues raised or received by the Governor-General-in-Council from the administration of the railways, ports and harbours, and such fund shall be appropriated by Parliament to the purposes of the railways, ports and harbours in the manner prescribed by this Act. There shall also be formed a Consolidated Revenue Fund, into

which shall be paid all other revenues raised or received by the Governor-General-in-Council, and such fund shall be appropriated by Parliament for the purposes of the Union in the manner prescribed by this Act and subject to the charges imposed thereby.

2. The Governor-General-in-Council shall, as soon as may be after the establishment of the Union, appoint a Commission, consisting of one representative from each province and presided over by an officer from the Imperial Service, to institute an inquiry into the financial relations which should exist between the Union and the provinces. Pending the completion of that inquiry and until Parliament otherwise provides there shall be paid annually out of the Consolidated Revenue Fund to the Administrator of each Province:

(*a*) An amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year 1908-9, as voted by the Parliaments of the respective Colonies during the year 1908,

(*b*) Such further sums as the Governor-General-in-Council may consider necessary for the due performance of the services and duties assigned to the provinces respectively.

Until such inquiry shall be completed and Parliament shall have made other provision, the Executive Committees in the several Provinces shall annually submit estimates of their expenditure for the approval of the Governor-General-in-Council, and no expenditure shall be incurred by any Executive Committee which is not provided for in such approved estimates.

3. The Consolidated Revenue Fund shall be permanently charged with the costs, charges and expenses incident to the collection, management and receipt thereof, and the same shall form the first charge thereon.

4. The annual interest of the public debts of the Colonies and any sinking funds constituted by law at the establishment of the Union shall form the second charge on the Consolidated Revenue Fund.

5. Subject to the several payments by this Act charged on the Consolidated Revenue Fund, the same shall be appropriated by Parliament for the public service.

6. No money shall be withdrawn from the Consolidated Revenue Fund or the Railway and Harbour Fund except under appropriation made by law. But until the expiration of two months after the first meeting of Parliament, the Governor-General-in-Council may draw therefrom and expend such moneys as may be necessary for the public service and for railway and harbour administration respectively.

7. All stocks, cash, bankers' balances and securities for money belonging to each Colony at the establishment of the Union shall be the property of the Union. Provided that the balances of any funds raised at the date of the Union by law for any special purposes, in any of the Colonies, shall be

deemed to have been appropriated by Parliament for the special purposes for which they have been provided.

8. Crown lands, public works and all property throughout the Union, movable or immovable, belonging to the several Colonies at the establishment of the Union, and all rights of whatever description shall vest in the Governor-General-in-Council subject to any debt or liability specifically charged thereon.

9. All rights in and to mines and minerals and all rights in connection with the searching for, working for or disposing of minerals or precious stones which at the date of the establishment of the Union are vested in the Government of any of the Colonies shall, on the establishment of the Union, vest in the Governor-General-in-Council.

10. The Union shall assume all debts and liabilities of the several Colonies existing at the establishment of the Union, subject to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and may convert, renew or consolidate such debts.

11. All ports, harbours and railways belonging to the several Colonies at the establishment of the Union shall from the date thereof vest in the Governor-General-in-Council. No public railway, port, harbour or similar work shall be constructed without the sanction of Parliament.

12. Subject to the authority of the Governor-General-in-Council, the control and management of the railways, ports and harbours of the Union shall be exercised through a Board consisting of not more than three Commissioners, who shall be appointed by the Governor-General-in-Council and a Minister of State, who shall be Chairman. Each Commissioner shall hold office for a period of five years, but may be reappointed. He shall not be removed before the expiration of his period of appointment except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session. The salaries of the Commissioners shall be fixed and provided by Parliament, and shall not be reduced during their respective terms of office.

13. The railways, ports and harbours of the Union shall be administered on business principles, due regard being had to agricultural and industrial development within the Union, and the promotion, by means of cheap transport, of the settlement of an agricultural and industrial population in the inland portions of the Union.

So far as may be, the total earnings shall be not more than are sufficient to meet the necessary outlays for working, maintenance, betterment, depreciation and the payment of interest due on capital not being capital contributed out of railway or harbour revenue and not being interest on any capital which Parliament may provide in accordance with the provisions of

section ..... (Finance Clause 16). The amount of interest due on such capital invested shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund.

The Governor-General-in-Council shall give effect to the provisions of this section as soon and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of four years from the establishment of the Union.

14. The Board may establish a fund to be used for maintaining, as far as may be, uniformity of rates to meet fluctuations in traffic.

15. All balances standing to the credit of any fund established in any of the Colonies for railway or harbour purposes at the establishment of the Union shall be under the sole control and management of the Railway and Harbour Board, and shall be deemed to have been appropriated by Parliament for the respective purposes for which they have been provided.

16. Every proposal for the construction of any port or harbour works or of any line of railway, before being submitted to Parliament, shall be considered by the Board, who shall report thereon, and shall advise whether the proposed works or line of railway should or should not be constructed. If any such works or line shall be constructed contrary to the advice of the Board, and if the Board are of opinion that the revenue derived from the operation of such works or line will be insufficient to meet the costs of working and maintenance and of interest on the capital invested therein, they shall frame an estimate of the annual loss which in their opinion will result from such operation. Such estimate shall be examined by the Controller and Auditor-General, and, when approved by him, the amount thereof shall be paid over annually from the Consolidated Revenue Fund to the Railway and Harbour Fund. Provided that if in any year the actual loss incurred as calculated by the Board and certified to by the Controller and Auditor-General is less than the estimate framed by the Board, the amount paid over in respect of that year shall be reduced accordingly so as not to exceed the actual loss incurred.

In calculating the loss arising from the operation of any such work or line, the Board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

17. If the Board shall be required by the Governor-General-in-Council or under any Act of Parliament to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities, the Board shall at the end of each financial year present to Parliament an account approved by the Controller and Auditor-General, showing as nearly as can be ascertained the amount of the loss incurred by reason of the provision of such services and facilities, and

such amount shall be paid out of the Consolidated Revenue Fund to the Railway and Harbour Fund.

18. The Governor-General-in-Council shall appoint a fit person to be Controller and Auditor-General, who shall not be removed from office except for cause shown, which shall be communicated in writing to him and by message to both Houses of Parliament within one week after the removal if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session. He shall be paid out of the Consolidated Revenue Fund such salary as the Governor-General-in-Council may, subject to the approval of Parliament, direct. Until Parliament shall otherwise provide, the Controller and Auditor-General shall exercise such powers and functions and undertake such duties as may be assigned to him by the Governor-General-in-Council by regulations framed in that behalf.

19. In order to compensate for any loss sustained by any town which at the establishment of the Union is the capital of any of the Colonies in the form of diminution of prosperity or decreased rateable value by reason of the capital of the Union being placed elsewhere, there shall be paid from the Consolidated Revenue Fund to the Municipal Council of such town, for a period not exceeding twenty-five years, a grant of two per cent. per annum on the amount of the municipal debt of such town. One-half of such grant shall be applied to the redemption of the municipal debt of such town as ascertained by the Auditor-General of the Union.

For the purpose of this clause Cape Town shall be deemed to include the municipalities of Cape Town, Green Point and Sea Point, Woodstock, Mowbray, Rondebosch, Claremont and Wynberg, and any sum paid under this section in respect of Cape Town shall be paid to the Councils of those municipalities in proportion to their respective debts.

Provided that the debts of the several municipalities shall be treated as not exceeding the following amounts:

Cape Town and Suburbs...	£4,450,000
Maritzburg	£1,219,000
Pretoria	£1,000,000
Bloemfontein	£868,000

Provided that at any time after the expiration of ten years the Governor-General-in-Council, with the approval of Parliament, may, after due inquiry, withdraw or reduce the grant to all or any of the towns in question.

Mr. Fischer moved: That the report be considered when the debate on the report of the Committee on the Union Capital has been concluded.

Agreed to.

7. Debate on Report of Committee on Union Capital continued.

Discussion resumed.

On the motion of Gen. Smuts,

The debate was adjourned until Monday, after the report of the Drafting Committee has been considered.

8. On the motion of Mr. Malan, the Convention adjourned at ten minutes to four o'clock p.m.

CAPE TOWN, *Monday* 25TH *January, 1909.*

Ten o'clock a.m.

1. All the members were present, except Sir William Milton.

2. *The President* read and put in a letter, dated the 23rd instant, from the Mayor of Potchefstroom, on the subject of the low death-rate at that place.

3. Report of Drafting Committee to be considered.

The President stated that this report would be found on pages 200-206 of the Proceedings.

Clause Thirty-one [pages 200-201], as amended by the Drafting Committee, put.

Mr. Watt moved: To add to sub-section (v): "provided always that in any redistribution of members not less than seventeen shall be allotted to any original province."

After discussion,

This amendment was put and the Convention divided:

"AYES"—12.	"NOES"—18.
Botha, Gen.	Beck, Dr.
Browne, Mr.	Burger, Gen.
De la Rey, Gen.	De Villiers, Sir J. H.
Fischer, Mr.	De Wet, Gen.
Fitzpatrick, Sir J. P.	Farrar, Sir G. H.
Greene, Col.	Hertzog, Gen.
Hull, Mr.	Jagger, Mr.
Hyslop, Mr.	Jameson, Dr.
Moor, Mr.	Lindsay, Mr.
Smuts, Gen.	Maasdorp, Mr.
Smythe, Mr.	Malan, Mr.
Watt, Mr.	Merriman, Mr.
	Sauer, Mr.
	Smartt, Dr.
	Stanford, Col.
	Steyn, Mr.
	van Heerden, Mr.
	Walton, Mr.

The amendment accordingly negatived.

Mr. Hyslop moved: To omit all the words after "otherwise provides" in sub-section (v).

Mr. Malan moved: To omit "and the last preceding"; to make "sections" in the singular and to insert thereafter "contained."

Col. Greene moved: To add to sub-section (v): "provided always that for a period of ten years after the establishment of the Union in any redistribution of members not less than seventeen shall be allotted to any original province."

After discussion,

With leave of the Convention,

The amendment proposed by Mr. Hyslop was withdrawn.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

4. Minutes of previous meeting confirmed.

5. Consideration of Drafting Committee's report, continued.

With leave of the Convention,

The amendment proposed by Colonel Greene was withdrawn.

Gen. Smuts moved, as an unopposed motion: That the Convention revert to Clause Thirty.

Agreed to.

Gen. Smuts moved: To add at the end: "or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period."

Agreed to.

Consideration of Clause Thirty-one as amended by the Drafting Committee, continued.

With leave of the Convention,

The amendment proposed by Mr. Malan was withdrawn.

Mr. Malan then moved: To omit "notwithstanding anything in this and the last preceding sections" and substitute "subject to the provisions of the last preceding section."

Agreed to.

Clause, as amended, agreed to, viz.:—

31. The number of members to be elected in each province, as provided in section thirty, shall be increased from time to time as may be necessary in accordance with the following provisions:—

(i) The quota of the Union shall be obtained by dividing the total number of European male adults in the Union, not being members of His Majesty's regular forces on full pay, as ascertained at the census of 1904, by the total number of members of the House of Assembly as constituted at the establishment of the Union.

(ii) In 1911 and every five years thereafter a census of the European population of the Union shall be taken for the purposes of this Act.

(iii) After every such census the number of European male adults in each province shall be compared with the

number of European male adults as ascertained at the census of 1904, and in the case of any province where an increase is shown as compared with the census of 1904, equal to the quota of the Union or any multiple thereof, the number of members allotted to such province by virtue of the provisions of the last preceding section shall be increased by an additional member or an additional number of members equal to such multiple as the case may be.

(iv) Notwithstanding anything herein contained, no additional member shall be allotted to any province until the total number of European male adults in such province exceeds the quota of the Union multiplied by the number of members allotted to such province for the time being, and thereupon additional members shall be allotted to such province in respect only of such excess.

(v) As soon as the number of members of the House of Assembly to be elected in the original provinces in accordance with the preceding sub-sections reaches the total of 150, such total shall not be further increased unless and until Parliament otherwise provides; and subject to the provisions of the last preceding section, the distribution of members among the provinces shall be such that the proportion between the number of members to be elected at any time in each province and the number of European male adults in such province, as ascertained at the last preceding census, shall, as far as possible, be identical throughout the Union.

(vi) "Adult males" in this Act shall be taken to mean males of 21 years of age or upwards.

Clause Thirty-seven, standing over from the Draft Act [page 163] put and agreed to.*

Clauses Thirty-eight,* Thirty-nine,† and Forty-two,‡ as amended by the Drafting Committee [pages 201-202] put and agreed to.

Clause Sixty-one, standing over from the Draft Act [page 177], put.

Mr. Jagger moved: To add at the end: The Senate may at any stage return to the House of Assembly any bill which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Assembly may if it thinks fit, make any of such omissions or amendments with or without modifications.

This amendment put and negatived.

Mr. Walton moved: To omit the penultimate sentence which was put and negatived.

Mr. Hyslop moved: To omit "under the bill."

Agreed to.

Clause, as amended, put and agreed to.

Clause Sixty-four, as amended by the Drafting Committee, [page 202] put.

Mr. Malan moved: After "next" to insert "annual."

After discussion.

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* Subsequently omitted—see page 224.

† Subsequently further amended—see page 225.

‡ Subsequently further amended—see page 248. G.R.H.

This amendment was put, and the Convention divided:

"AYES"—7.	
De Villiers, Sir J. H.	De Wet, Gen.
Hyslop, Mr.	Farrar, Sir G. H.
Jagger, Mr.	Fischer, Mr.
Malan, Mr.	Fitzpatrick, Sir J. P.
Moor, Mr.	Greene, Col.
Smythe, Mr.	Hertzog, Gen.
Van Heerden, Mr.	Hull, Mr.
	Jameson, Dr.
	Lindsay, Mr.
	Maasdorp, Mr.
	Merriman, Mr
"NOES"—23.	Sauer, Mr.
	Smartt, Dr.
Beck, Dr.	Smuts, Gen.
Botha, Gen.	Stanford, Col.
Browne, Mr.	Steyn, Mr.
Burger, Gen.	Walton, Mr.
De la Rey, Gen.	Watt, Mr.

The amendment accordingly negatived.

Clause agreed to without amendment.

The President then put the new Finance Clauses proposed by the Drafting Committee to follow after Clause One Hundred and Sixteen [pages 202-206].

Clause One [pages 202-203] put and agreed to.

On Clause Two [page 203],

The President moved: To omit "each Province" and substitute "the Provinces respectively" before sub-section (a).

Agreed to.

Clause, as amended, put and agreed to.

Clause Three [page 203] put and agreed to.

On Clause Four, [page 203],

Mr. Jagger moved: To omit "Colonies" and substitute "Union."

After discussion,

With leave of the Convention,

This amendment was withdrawn.

Clause agreed to without amendment.

Clauses Five, Six, Seven,* Eight,* Nine,* Ten* and Eleven* [pages 203-204] put and agreed to.

On Clause Twelve, [page 204],

Mr. Jagger moved: After "fixed" to omit "and provided."

After discussion,

This amendment was put and agreed to.

Clause, as amended, put and agreed to.

On Clause Thirteen [pages 204-205].

Sir George Farrar moved: To omit all the words after "harbour revenue" to "section ....," and substitute "and not including any sums payable out of the Consolidated Re-

*subsequently further amended—see page 228.—G.R.H.

venue Fund in accordance with the provisions of sections ..... and ..... (16 and 17, Finance)."

Gen. Smuts moved: To omit "on business principles" and substitute "as a commercial undertaking."

Mr. Hyslop moved: That the further consideration of this Clause stand over which was put and negatived.

Col. Greene moved: After "any case shall" to insert "not"; to omit "on business principles" and substitute "as a commercial undertaking but"; and after "regard" to insert "shall be had."

Dr. Beck moved: To omit "on business principles due regard being had" and substitute "with due regard to."

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

With leave of the Convention,

The amendments proposed by Gen. Smuts and Dr. Beck to Clause Thirteen were withdrawn.

Mr. Sauer moved: That the further consideration of this Clause stand over.*

Agreed to.

On Clause Fourteen, [page 205],

Mr. Jagger moved: That the Clause read as follows:

14. Notwithstanding the provisions of the last preceding section, the Board may, out of the surplus revenue accruing in any year, after payment of the necessary outlays and interest on capital, establish a fund to be used for meeting fluctuations in traffic and maintaining continuity of rates.

Mr. Hull moved: After "fund" to insert "out of Railway and Harbour revenue" and to omit "to meet" and substitute "notwithstanding."

Amendments by Mr. Hull put and agreed to.

With leave of the Convention,

The amendment proposed by Mr. Jagger was withdrawn.

Clause, as amended, put and agreed to, viz.:—

14. The Board may establish a fund out of Railway and Harbour Revenue to be used for maintaining, as far as may be uniformity of rates, notwithstanding fluctuations in traffic.

Clause Fifteen [page 205] put and agreed to.

On Clause Sixteen [page 205],

The President moved: To omit "who" after "Board" and substitute "which," and thereafter to omit "are," "they" and "their" and substitute respectively "is," "it" and "its."

Agreed to.

Clause, as amended, put and agreed to.

On Clause Seventeen [pages 205-206],

Sir George Farrar moved: Before "Act" to insert "resolution or."

Agreed to.

Clause, as amended, put and agreed to.

* See pages 219, 233-234.—G.R.H.

*Clause Eighteen [page 206] put and agreed to.

On Clause Nineteen [page 206],

Dr. Beck moved: After "Provided" in the second proviso to insert "further."

Agreed to.

Sir George Farrar moved: To transpose the words "as ascertained by the Auditor-General of the Union" and insert them after "such town" before "one-half."

Agreed to.

Clause, as amended, put and agreed to.

6. On the motion of Col. Greene, the Convention resumed the consideration of the Clauses standing over in the Draft Act.

On Clause Twenty-one, standing over [page 161],

Sir Percy Fitzpatrick moved: To omit the preamble to the Clause and sub-section (*a*) and substitute:

(*a*) For ten years after the establishment of the Union, and thereafter until Parliament otherwise provides, the Senate shall consist of eight Senators, to be nominated by the Governor-General-in-Council and eight Senators to be elected for each of the original provinces.

Upon which the Convention divided:

"AYES"—14.	"NOES"—16.
Beck, Dr.	Browne, Mr.
Botha, Gen.	De Villiers, Sir J. H.
Burger, Gen.	De Wet, Gen.
De la Rey, Gen.	Fischer, Mr.
Farrar, Sir G. H.	Greene, Col.
Fitzpatrick, Sir J. P.	Hertzog, Gen.
Hull, Mr.	Jagger, Mr.
Hyslop, Mr.	Jameson, Dr.
Lindsay, Mr.	Merriman, Mr.
Maasdorp, Mr.	Moor, Mr.
Malan, Mr.	Sauer, Mr.
Smuts, Gen.	Smartt, Dr.
Smythe, Mr.	Stanford, Col.
Watt, Mr.	Steyn, Mr.
	Van Heerden, Mr.
	Walton, Mr.

The amendment accordingly negatived.

Sir Percy Fitzpatrick moved: To omit the first paragraph of sub-section (*b*) and substitute:

(*b*) The Senators nominated by the Governor-General-in-Council shall hold their seats for ten years. One-half of their number shall be persons who are thoroughly acquainted with the conditions and requirements of the coloured races in South Africa.

After discussion,

* See pages 229, 233 and 237.—G.R.H.

The amendment was put, and the Convention divided:

"AYES"—13.	"NOES"—17.
Beck, Dr.	Browne, Mr.
Botha, Gen.	Burger, Gen.
De la Rey, Gen.	De Villiers, Sir J. H.
Farrar, Sir G. H.	De Wet, Gen.
Fitzpatrick, Sir J. P.	Fischer, Mr.
Hull, Mr.	Greene, Col.
Hyslop, Mr.	Hertzog, Gen.
Jagger, Mr.	Maasdorp, Mr.
Jameson, Dr.	Malan, Mr.
Lindsay, Mr.	Merriman, Mr.
Smartt, Dr.	Moor, Mr.
Smuts, Gen.	Sauer, Mr.
Smythe, Mr.	Stanford, Col.
	Steyn, Mr.
	Van Heerden, Mr.
	Walton, Mr.
	Watt, Mr.

The amendment accordingly negatived.

Mr. Hyslop moved: To transpose "mainly" to follow "selected."

This amendment put and negatived.

Dr. Beck moved: To omit "thoroughly."

This amendment put and negatived.

Sir Percy Fitzpatrick moved: To omit the second paragraph of sub-section (*b*) and substitute: If the seat of a senator so nominated shall become vacant, the Governor-General shall nominate another person to be a senator who shall hold his seat for ten years.

Mr. Malan moved: After "Governor-General" to insert "in-Council."

The amendment proposed by Mr. Malan put and agreed to.

The amendment proposed by Sir Percy Fitzpatrick, as amended, put, and the Convention divided:

"AYES," 16.	"NOES," 14.
Beck, Dr.	Browne, Mr.
Botha, Gen.	Burger, Gen.
De la Rey, Gen.	De Wet, Gen.
De Villiers, Sir J. H.	Farrar, Sir G. H.
Fitzpatrick, Sir J. P.	Fischer, Mr.
Greene, Col.	Hertzog, Gen.
Hull, Mr.	Jameson, Dr.
Hyslop, Mr.	Maasdorp, Mr.
Jagger, Mr.	Merriman, Mr.
Lindsay, Mr.	Sauer, Mr.
Malan, Mr.	Smartt, Dr.
Moor, Mr.	Steyn, Mr.
Smuts, Gen.	Van Heerden, Mr.
Smythe, Mr.	Walton, Mr.
Stanford, Col.	
Watt, Mr.	

The amendment accordingly agreed to, viz.:

If the seat of a senator so nominated shall become vacant the Governor-General-in-Council shall nominate another person to be a senator who shall hold his seat for ten years.

Sir Percy Fitzpatrick moved: To omit sub-section (*c*) down to "Such senators," and substitute:

(*c*) The first election of senators for each province shall take place in the following manner. After the passing of this Act, and before the day appointed for the establishment of the Union the Governor of each Colony shall summon a special sitting of both Houses of the Legislature, and the two Houses sitting together as one body and presided over by the Speaker of the House of Assembly shall, according to the principle of proportional representation with the single transferable vote, under regulations in that behalf to be framed by the Governor-in-Council of such Colony, elect eight persons to be senators for the Province.

Agreed to.

Sir Percy Fitzpatrick moved: That the following be a new sub-section (*d*):—

(*d*) At any subsequent election of senators that may become necessary either on a dissolution of the Senate or from effluxion of time eight senators in each province shall be directly chosen by the voters of each province voting as one electorate and according to the principle of proportional representation with the single transferable vote.

Mr. Jagger moved, as an amendment: That the new sub-section read as follows:—

(*d*) The senators shall at the first meeting of the Senate following such election be respectively divided into two classes, the places of the senators of the first class shall become vacant at the end of five years and the places of the second class shall become vacant at the end of ten years from the beginning of their term of service, and afterwards the places of senators shall become vacant at the expiration of ten years from the beginning of their term of service.

At every election of senators after the first, the senators for each province shall be elected by the Provincial Council of such province according to the principle of proportional representation with the single transferable vote.

These amendments put and negatived.

Dr. Beck moved: In sub-section (*c*), after "choose" to insert "in like manner."

Gen. Smuts moved: After "ten years" to insert "unless the Senate shall be dissolved before the expiration of such period."

Discussion ensued.

On the motion of Dr. Smartt, the further consideration of the draft Act was postponed until to-morrow.

7. On the motion of Mr. Sauer, the Convention adjourned at twenty minutes past four o'clock p.m.

CAPE TOWN, *Tuesday*, 26TH *January, 1909.*
Ten o'clock a.m.

1. All the members were present, except Sir William Milton.

2. Consideration of draft South Africa Act resumed.

The President stated that when the draft Act was before the Convention yesterday, Clause Twenty-one, as amended, was under consideration, and a new sub-section (*d*) having been negatived, further amendments had been moved to sub-section (*c*), as follows:—

By Dr. Beck: In sub-section (*c*) after "choose" to insert "in like manner."

By Gen. Smuts: After "ten years" to insert "unless the Senate shall be dissolved before the expiration of such period."

Discussion resumed.

Business suspended at eleven o'clock a.m.
Quarter-past eleven o'clock a.m.

Business resumed.

3. Minutes of previous meeting confirmed.

4. Consideration of draft South Africa Act continued.

On the motion of Gen. Smuts,

The Convention reverted to Clause Eighteen [page 161], standing over, which was put and agreed to.

The Convention then resumed the consideration of Clause Twenty-one.

With leave of the Convention,

The amendment proposed by Gen. Smuts was withdrawn.

Gen. Smuts then moved: To omit all the words after "ten years" to the end, and substitute:

(*d*) If the seat of an elected senator shall become vacant, the Senators and Members of the House of Assembly elected for the Province for which the Senator was chosen shall be summoned by the Governor-General, and shall sitting and voting together according to the principle of proportional representation with the single transferable vote choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held it.

Upon which the Convention divided:

"AYES"—10.

Botha, Gen.
Burger, Gen.
De la Rey, Gen.
De Villiers, Sir J. H.
Farrar, Sir G. H.
Fitzpatrick, Sir J. P.
Hull, Mr.
Lindsay, Mr.
Malan, Mr.
Smuts, Gen.

"NOES"—20.

Beck, Dr.
Browne, Mr.
De Wet, Gen.
Fischer, Mr.
Greene, Col.
Hertzog, Gen.
Hyslop, Mr.
Jagger, Mr.
Jameson, Dr.
Maasdorp, Mr.
Merriman, Mr.
Moor, Mr.
Sauer, Mr.
Smartt, Dr.
Smythe, Mr.
Stanford, Col.
Steyn, Mr.
Van Heerden, Mr.
Walton, Mr.
Watt, Mr.

The amendment accordingly negatived.

Sir George Farrar moved: After "has been elected" to insert "together with the senators and members of the House of Assembly for the province for which the senator was chosen."

Upon which the Convention divided:

"AYES," 13.	"NOES," 17.
Botha, Gen.	Beck, Dr.
De la Rey, Gen.	Browne, Mr.
Farrar, Sir G. H.	Burger, Gen.
Fitzpatrick, Sir J. P.	De Villiers, Sir J. H.
Greene, Col.	De Wet, Gen.
Hull, Mr.	Fischer, Mr.
Jagger, Mr.	Hertzog, Gen.
Jameson, Dr.	Hyslop, Mr.
Malan, Mr.	Lindsay, Mr.
Moor, Mr.	Maasdorp, Mr.
Smartt, Dr.	Merriman, Mr.
Smuts, Gen.	Sauer, Mr.
Walton, Mr.	Smythe, Mr.
	Stanford, Col.
	Steyn, Mr.
	Van Heerden, Mr.
	Watt, Mr.

The amendment accordingly negatived.

With leave of the Convention,

The amendment proposed by Dr. Beck was withdrawn.

*Clause, as amended, put and agreed to, viz.:—

21. For ten years after the establishment of the Union and thereafter until Parliament otherwise provides the constitution of the Senate shall in respect of the original provinces be as follows:

(*a*) Eight senators shall be nominated by the Governor-General-in-Council and for each original province eight senators shall be elected in the manner hereinafter provided.

(*b*) The senators to be nominated by the Governor-General-in-Council shall hold their seats for ten years. One-half of their number shall be selected on the ground mainly of their thorough acquaintance by reason of their official experience or otherwise with the reasonable wants and wishes of the coloured races in South Africa.

If the seat of a senator so nominated shall become vacant the Governor-General-in-Council shall nominate another person to be a senator who shall hold his seat for ten years.

(*c*) The first election of senators for each province shall take place in the following manner: After the passing of this Act and before the day appointed for the establishment of the Union, the Governor of each Colony shall summon a special sitting of both Houses of the Legislature and the two Houses

* See page 232.—G.R.H.

sitting together as one body and presided over by the Speaker of the House of Assembly shall, according to the principle of proportional representation with the single transferable vote, under regulations in that behalf to be framed by the Governor-in-Council of such Colony, elect eight persons to be senators for the province. Such senators shall hold their seats for ten years. If the seat of a senator so elected shall become vacant the Provincial Council of the province for which such senator has been elected shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat.

On Clause Twenty-two [page 161] standing over,

Gen. Smuts moved: To omit "the Provincial Council of such province," and substitute "the members of the Provincial Council of such province together with the members of the House of Assembly elected for such province."

After discussion,

The amendment was put, and the Convention divided:—

"AYES," 17.	"NOES," 13.
Beck, Dr.	Browne, Mr.
Botha, Gen.	De Villiers, Sir J. H.
Burger, Gen.	De Wet, Gen.
De la Rey, Gen.	Fischer, Mr.
Farrar, Sir G. H.	Hertzog, Gen.
Fitzpatrick, Sir J. P.	Hyslop, Mr.
Greene, Col.	Maasdorp, Mr.
Hull, Mr.	Merriman, Mr.
Jagger, Mr.	Sauer, Mr.
Jameson, Dr.	Smythe, Mr.
Lindsay, Mr.	Steyn, Mr.
Malan, Mr.	Van Heerden, Mr.
Moor, Mr.	Watt, Mr.
Smartt, Dr.	
Smuts, Gen.	
Stanford, Col.	
Walton, Mr.	

The amendment accordingly agreed to.

Gen. Smuts moved: That Clauses Twenty-one and Twenty-two be referred back to the Drafting Committee.*

Agreed to.

On Clause Twenty-six [page 161], standing over.

The President stated that when this Clause was ordered to stand over, an amendment had been moved by Gen. Smuts to omit "thereupon" after "shall" and substitute "as soon as practicable."

This amendment put and agreed to.

Mr. Malan moved: After "hand" to insert "or by telegram."

Agreed to.

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* See page 232.—G.R.H.

*Clause, as amended, put and agreed to.

On the motion of Gen. Smuts,

The Convention reverted to Clause Twenty-three.†

Gen. Smuts moved: To omit "£1,000" and substitute "£500."

After discussion,

The amendment was put and the Convention divided:

"AYES," 16.	"NOES," 14.
Botha, Gen.	Beck, Dr.
Browne, Gen.	Burger, Gen.
De la Rey, Gen.	De Wet, Gen.
De Villiers, Sir J. H.	Greene, Col.
Farrar, Sir G. H.	Hyslop, Mr.
Fischer, Mr.	Jagger, Mr.
Fitzpatrick, Sir J. P.	Jameson, Dr.
Hertzog, Gen.	Maasdorp, Mr.
Hull, Mr.	Merriman, Mr.
Lindsay, Mr.	Moor, Mr.
Malan, Mr.	Smartt, Dr.
Sauer, Mr.	Smythe, Mr.
Smuts, Gen.	Van Heerden, Mr.
Stanford, Col.	Walton, Mr.
Steyn, Mr.	
Watt, Mr.	

The amendment accordingly agreed to.

Col. Greene moved: To omit sub-section (*e*).

After discussion,

With leave of the Convention,

This amendment was withdrawn.

On the motion of Mr. Van Heerden,

The Convention reverted to Clause Eighty-three.

Mr. Van Heerden moved: Before "members" to insert "elected," and to omit "also" before "a casting vote."

Upon which the Convention divided:

"AYES," 11.	
	Browne, Mr.
	Burger, Gen.
Greene, Col.	De la Rey, Gen.
Hyslop, Mr.	De Villiers, Sir J. H.
Jagger, Mr.	De Wet, Gen.
Maasdorp, Mr.	Farrar, Sir G. H.
Malan, Mr.	Fischer, Mr.
Moor, Mr.	Fitzpatrick, Sir J. P.
Smartt, Dr.	Hertzog, Gen.
Smythe, Mr.	Hull, Mr.
Stanford, Col.	Jameson, Dr.
Van Heerden, Mr.	Lindsay, Mr.
Watt, Mr.	Merriman, Mr.
	Sauer, Mr.
"NOES," 19.	Smuts, Gen.
Beck, Dr.	Steyn, Mr.
Botha, Gen.	Walton, Mr.

*Subsequently further amended see page 233.

†Subsequently further amended see page 224.—G.R.H.

The amendment accordingly negatived.

Clause One Hundred and thirty-four [page 193], standing over, put and agreed to.

The Convention reverted to Clause Thirteen [pages 204-205] of the proposed Finance Clauses of the draft South Africa Act.

The President stated that when this clause was ordered to stand over on the 25th instant the following amendments had been moved, viz.:

By Sir George Farrar: To omit all the words after "harbour revenue" to "section .....," and substitute "and not including any sums payable out of the Consolidated Revenue Fund in accordance with the provisions of sections ... and ... (16 and 17 Finance)."

By Col. Greene: After "shall" to insert "not"; to omit "on business principles" and substitute "as a commercial undertaking but": and after "regard" to insert "shall be had."

The amendment proposed by Sir George Farrar put and agreed to.

With leave of the Convention,

The amendment proposed by Col. Greene was withdrawn.

*Clause, as amended, put and agreed to, viz.:—

13. The Railways, Ports and Harbours of the Union shall be administered on business principles, due regard being had to agricultural and industrial development within the Union and the promotion, by means of cheap transport, of the settlement of an agricultural and industrial population in the inland portions of the Union.

So far as may be, the total earnings shall be not more than are sufficient to meet the necessary outlays for working maintenance, betterment, depreciation and the payment of interest due on capital not being capital contributed out of railway or harbour revenue and not including any sums payable out of the Consolidated Revenue Fund in accordance with the provisions of sections ... and ... (16 and 17 Finance). The amount of interest due on such capital invested shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund.

The Governor-General-in-Council shall give effect to the provisions of this section as soon and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of four years from the establishment of the Union.

Mr. Sauer, moved: That the whole of the draft Act be referred to the Drafting Committee with power to make such alterations in phraseology as may be necessary to make the meaning clear.

Agreed to.

Mr. Malan moved: To revert to Clause Thirty-three.

Col. Greene objected.

Business suspended at one o'clock p.m.

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* Subsequently further amended—see pages 233-234.—G.R.H.

Two o'clock p.m.

Business resumed.

Mr. Malan moved: That Clause Thirty-three, together with the original resolution and the motion proposed by Mr. Moor on the 16th December last [page 133] on the extension of the franchise to women, be referred to the Drafting Committee.

Gen. De Wet objected.

Mr. Malan moved: That the Convention revert to Clause Thirty-three.

After discussion,

This motion was put and agreed to.

Mr. Malan moved: To omit all the words after "House of Assembly" to "unless the bill" and substitute "but no law by which the qualifications of voters are prescribed existing in the Colony of the Cape of Good Hope at the date of the establishment of the Union shall be repealed or amended so as to discriminate on the ground of race or colour only between persons entitled or who may at any time in future become entitled to be registered as voters thereunder, unless the bill in which such repeal or discrimination is proposed."

Discussion ensued.

On the motion of Sir George Farrar, the further consideration of this clause was ordered to stand over.*

On the motion of Mr. Watt,

The Convention reverted to Clause One-hundred and thirty-four.

Mr. Watt moved: After "sections 33" to insert "86."

After discussion,

The amendment was put, and the Convention divided:

"AYES," 5.	Farrar, Sir G. H.
	Fischer, Mr.
Greene, Col.	Fitzpatrick, Sir J. P.
Hyslop, Mr.	Hertzog, Gen.
Moor, Mr.	Hull, Mr.
Smythe, Mr.	Jagger, Mr.
Watt, Mr.	Jameson, Dr.
	Lindsay, Mr.
	Maasdorp, Mr.
"NOES," 25.	Malan, Mr.
	Merriman, Mr.
Beck, Dr.	Sauer, Mr.
Botha, Gen.	Smartt, Dr.
Browne, Mr.	Smuts, Gen.
Burger, Gen.	Stanford, Col.
De la Rey, Gen.	Steyn, Mr.
De Villiers, Sir J. H.	Van Heerden, Mr.
De Wet, Gen.	Walton, Mr.

The amendment accordingly negatived.

Mr. Hyslop moved: After "law" to insert "passed by an

* See pages 222-223.—G.R.H.

absolute majority of members of each House of Parliament."

Upon which the Convention divided:

"AYES," 5.	Farrar, Sir G. H.
	Fischer, Mr.
Greene, Col.	Fitzpatrick, Sir J. P.
Hyslop, Mr.	Hertzog, Gen.
Moor, Mr.	Hull, Mr.
Smythe, Mr.	Jagger, Mr.
Watt, Mr.	Jameson, Dr.
	Lindsay, Mr.
	Maasdorp, Mr.
"NOES," 25.	Malan, Mr.
	Merriman, Mr.
Beck, Dr.	Sauer, Mr.
Botha, Gen.	Smartt, Dr.
Browne, Mr.	Smuts, Gen.
Burger, Gen.	Stanford, Col.
De la Rey, Gen.	Steyn, Mr.
De Villiers, Sir J. H.	Van Heerden, Mr.
De Wet, Gen.	Walton, Mr.

The amendment accordingly negatived.

On the motion of Mr. Malan,

The Convention reverted to the Schedule.

Mr. Malan moved: To add to sub-section (19) "provided that the Governor-General-in-Council may make special provision for the appropriation of a portion of such revenue as a contribution towards the cost of defence and services of a similar nature rendered by the Union for the whole of South Africa."

Discussion ensued.

Mr. Moor moved: That the further consideration of this sub-section stand over.

Agreed to.

5. Consideration of Report of Committee on the Union Capital resumed.

The President stated that this report would be found on pages 172-173 of the proceedings, and that when the report was under consideration on Saturday the question before the Convention was a motion by General Hertzog: That the method of voting for the Union Capital be that proposed in paragraph I. of the committee's report.

Upon which an amendment had been moved by Gen. Botha:

To omit "paragraph I." and substitute "paragraph II."

With leave of the Convention,

The amendment proposed by Gen. Botha was withdrawn.

After discussion,

On the motion of Mr. Merriman,

The debate was adjourned until to-morrow.

6. On the motion of Mr. Merriman, the Convention adjourned at a quarter to five o'clock p.m.

CAPE TOWN, *Wednesday*, 27th *January*, *1909*.

1. All the members were present, except Sir William Milton.

2. *Mr. Hyslop* moved: That the Convention at its rising to-day adjourn until to-morrow at half-past eleven o'clock a.m.

*Agreed to.

3. *Gen. Botha* moved: That Mr. Hull be a member of the Drafting Committee as an alternate to Gen. Smuts.

Agreed to.

4. Consideration of draft South Africa Act resumed.

The President stated that sub-section (19) of the Schedule having been reverted to, the following amendment had been moved by Mr. Malan: To add "provided that the Governor-General-in-Council may make special provision for the appropriation of a portion of such revenue as a contribution towards the cost of defence and services of a similar nature rendered by the Union for the whole of South Africa."

The President moved, as an amendment to this amendment: Before "services" to insert "other"; to omit "of a similar nature rendered" and substitute "performed" and before "whole" to insert "benefit of the."

Amendment, as amended, put and agreed to, the sub-section then reading as follows:—

(19) Subject to the provisions of this Schedule all revenues derived from any territory shall be expended for and on behalf of such territory, provided that the Governor-General-in-Council may make special provision for the appropriation of a portion of such revenue as a contribution towards the cost of defence and other services performed by the Union for the benefit of the whole of South Africa.

The President then stated that Clause Thirty-three having been reverted to, the following amendment had been moved by Mr. Malan: To omit all the words after "House of Assembly" to "unless the bill" and substitute "but no law by which the qualifications of voters are prescribed existing in the Colony of the Cape of Good Hope at the date of the establishment of the Union shall be repealed or amended so as to discriminate on the ground of race or colour only between persons entitled or who may at any time in future become entitled to be registered as voters thereunder, unless the bill in which such repeal or discrimination is proposed."

Discussion ensued.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

5. Minutes of previous meeting confirmed.

6. Consideration of draft South Africa Act continued.

After discussion,

With leave of the Convention,

*Subsequently rescinded—see page 223.—G.R.H.

The amendment proposed by Mr. Malan to Clause Thirty-three was withdrawn.

7. Consideration of Report of Committee on the Union Capital resumed.

The President stated that this report would be found on pages 172-173 of the proceedings, and that when the report was under consideration yesterday, the question before the Convention was a motion by General Hertzog: That the method of voting for the Union Capital be that proposed in paragraph 1. of the Committee's report.

After discussion,

With leave of the Convention,

The motion proposed by Gen. Hertzog was withdrawn.

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

Mr. Browne moved: That a Committee be appointed consisting of two delegates from each Colony, to be nominated by the respective Prime Ministers, and one delegate from Rhodesia to consider whether by the assignment for a term of years of some of the functions of the Union Capital to existing capitals, or otherwise, some agreement satisfactory to all the Colonies on the subject of such Union Capital can be arrived at.

After discussion,

With leave of the Convention,

This motion was withdrawn.

On the motion of Gen. de la Rey, the further consideration of this report was adjourned until Friday.

8. On the motion of Mr. Merriman, Mr. Walton was appointed an alternate for Mr. Merriman on the Drafting Committee.

9. On the motion of Sir Lewis Michell, Mr. Coghlan was nominated as an alternate for Sir Lewis Michell on the Drafting Committee.

10. On the motion of Mr. Sauer, the resolution adopted this morning that the Convention at its rising to-day adjourn until to-morrow at eleven-thirty o'clock a.m. was rescinded, and it was resolved that at its rising to-day the Convention adjourn until to-morrow at two o'clock p.m.

11. On the motion of Mr. Jagger, the Convention adjourned at half-past two o'clock p.m. until to-morrow at two o'clock p.m.

CAPE TOWN, *Thursday*, 28TH *January*, *1909*.

Two o'clock p.m.

1. All the members were present, except Sir William Milton.

2. Minutes of previous meeting confirmed.

3. Consideration of draft South Africa Act resumed.

The President put the preamble.

Col. Greene moved: After "British Colonies therein" to insert "relying on the blessing of Almighty God."

This amendment put and negatived.

Mr. Jagger moved: In the last paragraph to omit "eventual."

This amendment put and negatived.

*Preamble agreed to without amendment.

4. *The President*, as Chairman of the Drafting Committee, intimated that the Committee had now completed its labours and had agreed to a number of the suggestions made by the Prime Ministers on the report of their respective draftsmen and had also made other amendments, and further stated that he expected to bring up the report to-morrow.

On the motion of Gen. Smuts,

The Convention proceeded to consider† the amendments which the Drafting Committee had adopted on the report of the draftsmen.

The President put these amendments, which were agreed to, as follows:

Clause 4.

After "Act" to insert "of Parliament"; after "resolutions of" to omit "their respective" and substitute "both"; and after "name" to insert "of" and to omit the inverted commas before and after "South Africa."

Clause 7.

After "by" to omit "the Sovereign" and substitute "His Majesty."

Clause 11.

To omit "Sovereign or his representative" and substitute "Governor-General."

Clause 15.

After "Governor-in-Council" to insert "or in any authority of the Colony"; after "Governor-General-in-Council" to insert "or in the authority exercising similar powers under the Union"; and to omit "delegated to" and substitute "vested in."

Clause 17.

To omit "a" after "in" and substitute "the"; after "Parliament" where it first occurs to omit "to be styled the" and substitute "of the Union hereinafter called."

Clause 23.

In subsection (*e*) after "any" to omit "conventional or."

Clause 36.

After "officers" to omit "their" and substitute "the" and after "duties" to insert "of such officers."

Clauses 37 and 38.

Omitted.

* Subsequently amended see page 237.

† For an explanation of the procedure followed see Explanatory Note. G.R.H.

Clause 39.

To omit the words "each Colony" and "any Colony" where they occur and substitute "each of the Colonies" and "any of the Colonies"; to omit the words "several" and "said" where they occur before the words "Colonies"; after "expenses of such Commission" to insert "before the establishment of the Union"; after the words "disability of any of the Commissioners" to insert "before the establishment of the Union," and to add at the end "After the establishment of the Union the expenses of the Commission shall be defrayed by the Governor-General-in-Council and any vacancies shall be filled by him."

Clause 43.

In sub-section (i) after "boundaries of" to insert "and the number of members assigned to"; and to omit all the words after "division" to the end of the sub-section; in sub-section (iii) after "divisions" to insert "and the number of members assigned to each division."

Clause 44.

After "shall" to insert "in respect of the election of members of the House of Assembly."

Clause 51.

After "Speaker or" to insert "the."

New Clause 54.

To be added to Clause 73 as a new proviso.

Clause 55.

In sub-section (i) after "in the" to insert "last preceding," and after "section" to omit "fifty-four."

Clause 56.

After "law" to omit "to be."

Clause 58.

After "members" to omit "of the" and substitute "and."

Clause 59.

To omit "Legislative" and substitute "House of."

Clause 68.

After "Dutch language" to omit "and."

Clause 71.

To transpose the words "in the Province" to follow after "elected."

Clause 72.

To divide the Clause into two sub-sections, sub-section (i) concluding with the words "for the House of Assembly"; to amend that sub-section by omitting "and according to the principle of proportional representation with the single transferable vote"; to insert a new sub-section as follows:—

(ii) Any alteration in the number of members of the Provincial Council and any redivision of the Province into electoral divisions shall come into operation at the next general election for such Council held after the completion of the re-

division or of any allocation consequent upon such alteration and not earlier.

Sub-section (iii) to consist of from "The elections" to the end.

Clause 75.

To make "Councils" in the singular; and to omit "No greater period than twelve calendar months shall" and substitute "a period of twelve months shall not."

Clause 78.

To omit all the words after "Council and" to the end, and substitute "no member shall be liable to any action or proceeding in any Court by reason of his speech or vote in such Council."

Clause 79.

In sub-section (i) after "otherwise" to omit "according to the principle of proportional representation with the single transferable vote"; and in sub-section (iv) after "shall" to omit "similarly."

Clause 81.

To omit "wherever" and substitute "whenever" and to omit "election" and substitute "electing."

Clause 82.

After "establishment be" to omit "exercised by the Administrator" and substitute "vested in the Executive Committee."

Clause 89.

After "Parliament" to omit "it shall be lawful for"; after "Council" to insert "of the Province to which the matter relates may"; after "founded" to omit "it shall be lawful for"; and to omit "to" where it occurs after "Parliament" and substitute "may."

Clause 90.

After "appropriation" to insert "and under warrant signed by the Administrator."

Clause 92.

After "language" to omit "and."

Clause 95.

Before the title to insert "VI."

Clause 100.

After the word "after" to insert "the establishment of."

Clause 103.

To omit "Colony" and substitute "of the Colonies."

Clause 104.

To omit "Colony" and substitute "of the Colonies."

Clause 105.

To omit from "Appeals" down to "Union" and substitute "In every case civil or criminal in which at the establishment of the Union an appeal might have been

made from a Court of Resident Magistrate or other inferior Court to a Superior Court in any of the Colonies the appeal shall be made to the corresponding division of the Supreme Court of South Africa"; and after "such" to omit "Superior Court" and substitute "division."

Clause 107.

After "South Africa" to insert "and prescribing the time and manner of making Appeals thereto."

Clause 108.

After "promulgated" to omit "for any such division."

Clause 111.

To omit "in such manner" down to the end of the clause and substitute "in like manner as if they were original judgments or orders of the Provincial division of the Supreme Court of South Africa in such Province."

Clause 115.

To omit "a Colony" and insert "any of the Colonies" and to omit "Colony" and substitute "of the Colonies."

Clause 116.

To omit "Colony" and substitute "of the Colonies," and after "Superior Court of" to insert "any of."

Before the titles "Finance and Railways" and "General" to insert the numbers "VII." and "VIII." respectively.

New Clause 119.

The election of Senators and of members of the House of Assembly the Provincial Councils and the Executive Committees of the Provincial Councils as provided in this Act shall be according to the principle of proportional representation, each voter having one transferable vote. The Governor-General-in-Council or in the case of the first election of the Senate the Governor-in-Council of each of the Colonies shall frame regulations prescribing the method of voting and of transferring and counting votes and the duties of returning officers in connection therewith and such regulations or any amendments thereof after being duly promulgated shall have full force and effect unless and until Parliament shall otherwise provide.

Clause 123.

After "Governor-General" to insert "-in-Council."

Clause 127.

After "Service" to insert "of any."

Clause 128.

To omit "Parliament" where it occurs and substitute "Legislature."

Before the title "New Provinces and Territories" to insert "IX."

Clause 131.

To be amended to read as follows:—"Parliament may alter the boundaries of any Province divide the Province into two

or more Provinces or form a new Province out of Provinces or Territories within the Union on the petition of the Provincial Council of every Province whose boundaries are affected thereby."

Schedule.

Sub-section (1).

After "Territory" to omit "of" and substitute "belonging to."

Sub-section (4).

After "three of them" to insert "with the Prime Minister or his deputy."

Sub-section (7).

Before "Territories" to omit "said."

Sub-seetion (8).

Before "reasons" to omit "urgent."

Sub-section (12).

After "average" where it first occurs to insert "amount"; after "revenue" where it occurs the second time to insert "of such Territory"; after "average" where it occurs the second time to insert "amount."

Sub-seetion (13).

After "expenditure" to insert "any amount required to make good"; and after "Government to" to omit "cover" and substitute "make good."

Sub-section (21).

Before "Territories" to omit "different."

Sub-section (25).

To omit "proposed laws" and substitute "bills."

Finance Clauses.

Clause (2).

To omit "the Provinces respectively" and substitute "each Province" and in paragraph (a) to omit "Parliaments of the respective Colonies" and substitute "Legislature of the corresponding Colony."

Clause (7).

After "each" to omit "Colony" and substitute "of the Colonies."

Clause (8).

To transpose the words "and all rights of whatever description" to follow after "immovable."

Clause (9).

After "at" to omit "the date of"; after "on" to omit "the" and insert "such"; and after "establishment" to omit "of the Union."

Clause (10).

To omit "several" before "Colonies."

Clause (11).

After "no" to omit "public" and after "railway" to insert "for the conveyance of public traffic and no."

**Clause (18).*

To omit "fit person to be."

5. On the motion of Mr. Steyn,

Resolved: That the Draft Act be printed as soon as possible and distributed amongst members.

6. *Mr. Merriman* moved: That the Convention adjourn until to-morrow at half-past eleven o'clock a.m.

Sir George Farrar moved, as an amendment: That the Convention adjourn until to-morrow at two o'clock p.m.

After discussion,

This amendment was put and negatived.

The motion proposed by Mr. Merriman put and agreed to, and the Convention accordingly adjourned at half-past three o'clock p.m.

CAPE TOWN, *Friday*, 29TH *January, 1909.*

Half-past eleven o'clock a.m.

1. All the members were present, except Sir William Milton.

2. Minutes of previous meeting confirmed.

3. *The President* laid upon the table proofs† of the Draft South Africa Act printed in terms of the resolution of the Convention adopted yesterday [printed above].

4. *The President*, as Chairman, brought up the Second Report of the Committee, appointed by Resolution of the Convention dated the 18th December, 1908 [page 143], to draft the South Africa Act, as follows:—

Your Committee having had under consideration the suggestions submitted by the respective Prime Ministers on the report of their draftsmen, have agreed to the same‡ with the following exceptions:—

Clause 49.

To omit "or telegram" and insert "under his hand."

Clause 82.

The omission of the words "the Governor or."

Clause 86.

The power given in this Clause to the Executive Government of the Union of an undefined freedom to diminish the legislative power of Parliament without any reference to Parliament itself was drawn attention to in the report of the draftsmen.

Clause 113.

After "Provincial" to insert "or local."

Clause 122.

To omit "subject to the provisions of the next succeeding section."

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* An amended clause was subsequently submitted by the Drafting Committee — see pages 231 and 233.

† From this date the original draft Act was discarded and the printed proofs were before the Convention when making amendments.

‡ The amendments here referred to will be found on pages 224-229 having been adopted by the Convention in anticipation of this report.—G.R.H.

Clause 123.

To omit "passing of this Act" and insert "establishment of the Union."

Schedule, sub-section (18).

To omit "including the pass laws."

Finance Clause (3).

To omit "and the same" after "thereof" and insert "which."

Finance Clause (5).

To read as follows:—

5. The Consolidated Revenue Fund, subject to the several payments by this Act charged thereto shall be appropriated by Parliament for the public service.

Finance Clause (7).

After "balances" to insert "remaining unexpended at the establishment of the Union," and after "raised" to omit "at the date of the Union."

Finance Clause (17).

After the word "charge" to omit "which is sufficient to meet the costs involved in the provision" and substitute "which is less than that ordinarily imposed in respect."

The Committee also made the following amendments and additions:—

Clause 7.

The insertion of the words "His Majesty" in preference to "the King."

Clauses 21 and 22.

In lieu of the amendments first proposed, the Committee have adopted the two new clauses subsequently submitted as follows:—

21. For ten years after the establishment of the Union the constitution of the Senate shall be as follows:—

(i) Eight senators shall be nominated by the Governor-General-in-Council and for each original province eight senators shall be elected in the manner hereinafter provided.

(ii) The senators to be nominated by the Governor-General-in-Council shall hold their seats for ten years. One-half of their number shall be selected on the ground mainly of their thorough acquaintance by reason of their official experience or otherwise with the reasonable wants and wishes of the coloured races in South Africa.

If the seat of a senator so nominated shall become vacant the Governor-General-in-Council shall nominate another person to be a senator who shall hold his seat for ten years.

(iii) After the passing of this Act, and before the day appointed for the establishment of the Union the Governor of each of the Colonies shall summon a special sitting of both Houses of the Legislature and the two Houses sitting together as one body and presided over by the Speaker of the Legislative Assembly shall, according to the principle of proportional representation with the single transferable vote, under regu-

lations in that behalf to be framed by the Governor-in-Council of such Colony, elect eight persons to be senators for the province. Such senators shall hold their seats for ten years. If the seat of a senator so elected shall become vacant the Provincial Council of the Province for which such senator has been elected shall in like manner choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat.

22. Parliament may provide for the manner in which the Senate shall be constituted after the expiration of ten years and unless and until such provision shall have been made:

(i) The provisions of the last preceding section with regard to the nomination of senators shall continue to have effect;

(ii) Eight senators for each province shall be elected by the members of the Provincial Council of such province together with the members of the House of Assembly elected for such province according to the principle of proportional representation with the single transferable vote. Such senators shall hold their seats for ten years unless the Senate be sooner dissolved. If the seat of an elected senator shall become vacant the members of the Provincial Council of the Province together with the members of the House of Assembly elected for such Province shall in like manner choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat. The Governor-General-in-Council shall make regulations for the joint election of senators prescribed in this section.

Clause 43.

The addition of the word "division" at the end of the words proposed to be inserted.

Clause 49.

After "writing" to insert "under his hand" and after "or" to insert "by."

Clause 104.

In lieu of the suggested amendment* your Committee propose to omit "of" after "only" and substitute "of the value of the matter in dispute or."

Clause 18, Finance.

Your Committee propose that this clause shall read as follows:—

18. The Governor-General-in-Council shall appoint a Controller and Auditor-General who shall hold office during good behaviour; provided that he shall be removed by the Governor-General-in-Council on an address praying for such removal presented to the Governor-General by both Houses of Parliament; provided further that when Parliament is not in session it shall be lawful for the Governor-General-in-Council to suspend such officer on the ground of incompetence or mis-

* This amendment does not appear in the official record but from the Convention papers, it would seem that the amendment was to omit "amount claimed or awarded" and insert "value of the matter in dispute." G.R.H.

behaviour; and when and so often as such suspension shall take place a full statement of the circumstances shall be laid before both Houses of Parliament within fourteen days after the commencement of its next session; and if an address shall at any time during a session of Parliament be presented to the Governor-General by both Houses praying for the restoration to office of such officer he shall be restored accordingly; and if no such address be presented the Governor-General shall confirm such suspension and shall declare the office of Controller and Auditor-General to be and it shall thereupon become vacant.

Clause 123.

In order to bring this clause into harmony with Clause 122 your Committee propose to reinsert the words "and such officers on being so assigned shall become officers of the province."

5. *Mr. Sauer*, as Chairman, brought up the Third Report of the Committee, appointed by Resolution of the Convention dated the 7th December, 1908, [page 114] to make recommendations in regard to Finance and Trade, as follows:—

Your Committee having had under consideration the *modus vivendi* between the Transvaal and the Portuguese territory of Mozambique, the draft agreement in modification thereof and the division of the balance of the traffic between the coastal colonies, and not having arrived at a decision thereon, decided to refer the matter to the Prime Ministers of the several Colonies represented at the Convention.

6. On the motion of the President, the Convention proceeded to the consideration of the Second Report of the Drafting Committee [pages 229-232].

Proposed new Clause Twenty-one [pages 230-231] put.

Mr. Malan moved: In sub-section (iii) to omit from "according" to "such Colony" and also the words "in like manner."

Agreed to.

New clause, as amended, put and agreed to.

Proposed new Clause Twenty-two [page 231] put.

Sir Percy Fitzpatrick moved: In sub-section (i) to omit "the nomination of" and substitute "nominated."

Agreed to.

Mr. Malan moved: To omit from "according" to "transferable vote," and also the words "in like manner."

Agreed to.

Clause, as amended, put and agreed to.

On Clause Forty-six (old Forty-nine) the President put the proposed amendment after "writing" to insert "under his hand," which was agreed to.

The President then put the amendment to insert "by" after "or," which was negatived.

Mr. Merriman moved: To omit the words "or telegram."

Agreed to.

On the motion of Mr. Merriman,

The Convention reverted to Clause Twenty-six and the words "or by telegram" were omitted therefrom.

On the motion of the President,

A sub-heading "The Senate" was inserted after Clause Twenty.

The amendment on Clause One Hundred and Two (old One Hundred and Four) put and agreed to, viz.: to omit "of" after "only" and substitute "of the value of the matter in dispute or."

The President put the proposed new Clause One Hundred and Thirty-two in lieu of Clause Eighteen (Finance).

Mr. Walton moved, as an amendment: To add at the end "Until Parliament shall otherwise provide the Controller and Auditor-General shall exercise such powers and functions, and undertake such duties as may be assigned to him by the Governor-General-in-Council by regulations framed in that behalf."

Agreed to.

*Clause, as amended, put and agreed to.

The President put the amendment in Clause One Hundred and Forty-one (old One Hundred and Twenty-three), which was agreed to.

Mr. Malan moved: In sub-section (ii) of this Clause to omit the word "shall" and substitute "may."

Agreed to.

On the motion of the President, the Convention reverted to Clause One Hundred and Thirty-five (New Clause One Hundred and Nineteen). [See page 227].

The President moved: To insert after "shall" where it first occurs "whenever such election is contested."

Agreed to.

On the motion of The President, the Convention reverted to Clause One Hundred and Twenty-seven (old Finance Clause Thirteen).

The President moved: In the last paragraph to omit all the words after "section" to "expiration of," and substitute "within," and to omit "from" and substitute "after."

Agreed to.

Mr. Hull moved: To omit the word "business" and substitute "commercial."

This amendment put and negatived.

Gen. Smuts moved: At the beginning to insert "In the administration of" and to omit "shall be administered on business principles" and to omit "being" and substitute "shall be."

After discussion,

* Subsequently further amended—see page 237.—G.R.H.

This amendment was put, and the Convention divided:

"AYES," 15.	"NOES," 15.
Beck, Dr.	Browne, Mr.
Botha, Gen.	Burger, Gen.
Hertzog, Gen.	De la Rey, Gen.
Jameson, Dr.	De Villiers, Sir J. H.
Maasdorp, Mr.	De Wet, Gen.
Malan, Mr.	Farrar, Sir G. H.
Merriman, Mr.	Fischer, Mr.
Moor, Mr.	Fitzpatrick, Sir J. P.
Sauer, Mr.	Greene, Col.
Smartt, Dr.	Hull, Mr.
Smuts, Gen.	Hyslop, Mr.
Smythe, Mr.	Jagger, Mr.
Stanford, Col.	Lindsay, Mr.
Steyn, Mr.	Walton, Mr.
Van Heerden, Mr.	Watt, Mr.

The numbers being equal, the President gave his casting vote with the "Noes" to preserve the clause as already agreed to.

The amendment accordingly negatived.

On the motion of Dr. Jameson,

The Convention reverted to Clause Thirty.

Dr. Jameson moved: To omit "Oranje" and substitute "Orange Free State."

Agreed to, and it was resolved that the consequent amendments be made elsewhere in the Bill wherever necessary.

On the motion of Mr. Fischer,

The Convention reverted to Clause Thirty-one.

Mr. Fischer moved: In sub-section (vi) to omit "twenty-one" and substitute "twenty."

Discussion ensued.

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

On the motion of General Smuts, the further consideration of this amendment was ordered to stand over.*

On the motion of the President,

The Convention reverted to Clause Ninety-Six (old Ninety-eight).

The President moved: In sub-section (iv) to omit "also" and substitute "*mutatis mutandis.*"

Agreed to.

On the motion of Gen. Smuts,

The Convention reverted to Clause Eighty-three (old Eighty-six).

Gen. Smuts moved: To omit "the Administrator with the advice and consent of."

* See page 237.—G.R.H.

Agreed to.

On the motion of Gen. Smuts,

The Convention reverted to Clause One Hundred and Fifty-two (old One Hundred and Thirty-four).

Gen. Smuts moved: To insert after "prescribed" and within the brackets the words "or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period.

Agreed to.

On the motion of Gen. Hertzog,

The Convention reverted to Clause Eighty-nine (old Ninety-two).

Gen. Hertzog moved: To omit "A proposed" and substitute "An"; to omit "so"; after "assented to" to insert "by the Governor-General-in-Council," and after "promulgated" to insert "by the Administrator."

Agreed to.

7. *Col. Greene* moved: That the draft Constitution be published simultaneously in the five capitals on a date to be fixed hereafter.

Agreed to.

8. *Gen. Smuts* moved: That a Committee be appointed consisting of one delegate appointed by each Prime Minister, and one to represent Rhodesia, for the purpose of preparing a precis of the conclusions embodied in the draft Act.

Agreed to.

The Committee was then nominated as follows:—*Cape of Good Hope*, Mr. Walton; *Natal*, Mr. Watt; *Transvaal*, Gen. Smuts; *Orange River Colony*, Gen. Hertzog; and *Rhodesia*, Mr. Coghlan.

9. *Gen. Smuts* moved: That the question of the procedure in regard to the further steps to be taken after the publication of the draft Constitution, as agreed to in sub-section (*e*) of the Pretoria resolutions of the 5th May, 1908, be referred to a committee consisting of the respective Prime Ministers of the self-governing Colonies concerned.

Mr. Merriman moved: That the President be a member of the Committee.

Agreed to.

Motion, as amended, put and agreed to.

10. Consideration of report of Committee on the Union Capital resumed.

The President stated that this report would be found on pages 172-173 of the proceedings, and that when the report was under consideration on Wednesday the motion proposed by Gen. Hertzog had been withdrawn.

After discussion,

On the motion of Col. Greene, the debate was adjourned until to-morrow.

11. On the motion of Mr. Merriman, the Convention adjourned at twenty minutes past three o'clock p.m. until to-morrow at a quarter-past eleven o'clock a.m.

CAPE TOWN, *Saturday*, 30th *January*, *1909*.

Quarter-past eleven o'clock a.m.

1. All the members were present, except Sir William Milton.

2. Minutes of previous meeting confirmed.

3. *The President* laid upon the Table revised proofs of the draft South Africa Act.

4. *The President*, as Chairman, brought up the report of the committee appointed by resolution of the Convention dated the 29th January, 1909 [page 235], on procedure after publication of draft Constitution, as follows:—

Your Committee beg to recommend the following:—

(1) Special sessions of Parliament to meet on the 30th March for the purpose of discussing the draft Act.

(2) Convention to reassemble, if necessary, on a day in May to be fixed by the President of the Convention in consultation with the Prime Ministers of the Colonies.

(3) In June final draft to be submitted to Parliaments in order to pass the addresses for Union. This submission to be as far as practicable simultaneous.

(4) As soon as possible thereafter a Committee, consisting of delegates appointed by the Governments of the Colonies which have passed such addresses to proceed to England for the purpose of affording information to His Majesty's Government and facilitating the passing of the Act.

Mr. Malan moved: That the report be now considered.

Agreed to.

On Resolution No. 1.

Col. Greene moved: To omit "Special."

Agreed to.

Resolution, as amended, put and agreed to.

On Resolution No. 2.

Mr. Fischer moved: After "if necessary" to insert "in Bloemfontein."

Agreed to.

Resolution, as amended, put and agreed to.

Resolution No. 3 put.

Sir Percy Fitzpatrick moved: After "Union" to insert "and to take such other steps as may be necessary."

This amendment put and negatived.

Resolution agreed to without amendment.

Resolution No. 4 put.

Mr. Watt moved: After "addresses" to omit "to" and substitute "shall if necessary."

This amendment put and negatived.

Resolution agreed to without amendment.

5. On the motion of Mr. Malan, the Convention resumed the consideration of the draft Act for the purpose of making certain verbal amendments therein, which were agreed to, as follows:—

Preamble. In paragraph (2), to omit "voluntarily" and to omit the last words "in such Union," and substitute "therein."

Clause 17: To omit "hereinafter" and substitute "herein."

Clause 31, sub-section (iii): To omit "by virtue of the provisions of" and substitute "in."

Clause 31, sub-section (vi): To omit "adult males" and substitute "male adults."

Gen. Smuts moved: To add to Clause Thirty-one:

(vii) For the purposes of this section, the number of European male adults not being members of His Majesty's regular forces on full pay as ascertained at the Census of 1904 shall be taken to be:

for the Cape Colony	167,546
for Natal	34,784
for the Transvaal	106,493
for the Orange Free State	41,014

Mr. Malan moved, as an amendment: To omit "section" and substitute "Act."

These amendments put and agreed to.

Mr. Watt moved: To omit "Free State" and substitute "River Colony."

This amendment put and negatived.

Sub-section, as amended, put and agreed to.

The President stated that when the further consideration of Clause Thirty-one was ordered to stand over yesterday [page 234] an amendment had been moved by Mr. Fischer to omit "twenty-one" and substitute "twenty," but this amendment would now drop.

The following further amendments were then made, viz.:—

Clause 69 (old 72): Before "redivision" to omit "the" and substitute "such."

Clause 70 (old 73): To omit "be elected as" and substitute "become."

Clause 90 (old 93), sub-section (iii): After "Governor-General" to insert "in-Council."

Clause 96 (old 98), sub-section (iv.): To omit "had" and substitute "have."

Clause 113 (old 115), sub-section (iii.): To omit "of such Supreme Court."

Clause 129 (old Finance Clause 15): To omit "Railway and Harbour."

Clause 131 (old Finance Clause 17): To omit "resolution or" and after "of Parliament" to insert "or resolution of both Houses of Parliament."

Clause 132 (old Finance Clause 18): To omit "it shall be lawful for," and after "Council" to omit "to" and substitute "may."

Clause 133 (old Finance Clause 19): To omit "Maritzburg" and substitute "Pietermaritzburg," and to omit "paid" and substitute "payable."

Clause 136 (old 118): To omit "shall have been" and substitute "is."

Clause 150 (old 132): After "are" to insert "expressed" and after "addresses" to omit "expressed."

Clause 151 (old 133): After "His Majesty" to insert "and."

Clause 152 (old 134): To add at the end "A bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament."

Schedule.

Sub-section 11. To omit "conferred" and substitute "imposed."

Sub-section 23. To omit "in lieu of" and substitute "Where"; to omit "which" and to make "appeals" in the singular.

The following proposed amendments were put and negatived, viz.:—

Clause 61 (old 64), after "Senate" to omit "so" and substitute "first."

Clause 83 (old 86), sub-section (vii), before "subject" to to omit "and."

Clause 123 (old Finance Clause 9): To omit "working" and substitute "mining."

Clause 139 (old 121): After "functions which" to omit "shall" and substitute "are," and after "Union" to omit "be."

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

6. Consideration of report of Committee on the Union Capital resumed,

The President stated that this report would be found on pages 172-173 of the proceedings, and that when the report was under consideration yesterday the motion proposed by Gen. Hertzog had been withdrawn.

Mr. Merriman moved: The seat of the Executive Government of the Union shall be at Pretoria and the seat of the Legislature shall be at Cape Town.

Gen. Botha moved, as an amendment: "Pretoria shall be the capital and the seat of Government of the Union; the sessions of Parliament shall, however, be held at Cape Town."

Mr. Jagger moved, as an amendment: The seat of the Government of the Union shall be at such one of the four towns, Cape Town, Pietermaritzburg, Pretoria or Bloemfontein, as the voters of the Union may decide. For the purpose of obtaining such decision the names of the four towns abovementioned shall be submitted to the registered electors in the Union. Each elector shall have one single transferable vote, and the town which secures the largest number of votes shall be the one selected. Pending such selection, which shall take place within one year from the establishment of the Union Parliament shall meet at Cape Town.

Discussion ensued.

Mr. Sauer moved: That the debate be adjourned until Monday.

Col. Greene moved: That the Convention suspend business for twenty minutes.

The motion proposed by Mr. Sauer put and agreed to, and the motion by Col. Greene accordingly dropped.

7. On the motion of Mr. Sauer, the Convention adjourned at five minutes to four o'clock p.m. until Monday at a quarter-past eleven o'clock a.m.

CAPE TOWN, *Monday*, 1ST *February*, *1909*.

Quarter-past eleven o'clock a.m.

1. All the members were present, except Sir William Milton and Gen. De Wet.

2. Minutes of previous meeting confirmed.

3. *The President* laid upon the Table further revised proofs of the draft South Africa Act.

4. *The President* read and put in a letter, dated Bloemfontein, the 27th ultimo, from the Chairman of the Kimberley and Bloemfontein district Synod of the native section of the Wesleyan Methodist Church of South Africa, on the subject of safeguarding the interests of the natives.

5. Adjourned debate on motion on the Union Capital, to be resumed.

The President stated that when this debate was adjourned on Saturday, the question before the Convention was a motion by Mr. Merriman:

The seat of the Executive Government of the Union shall be at Pretoria, and the seat of the Legislature shall be at Cape Town.

Upon which the following amendments had been moved:

By Gen. Botha: Pretoria shall be the capital and the seat of Government of the Union: the sessions of Parliament shall, however, be held at Cape Town.

By Mr. Jagger: The seat of the Government of the Union shall be at such one of the four towns, Cape Town, Pietermaritzburg, Pretoria or Bloemfontein as the voters of the Union may decide. For the purpose of obtaining such decision the names of the four towns abovementioned shall be submitted to the registered electors in the Union. Each elector shall have one single transferable vote, and the town which secures the largest number of votes shall be the one selected. Pending such selection, which shall take place within one year from the establishment of the Union, Parliament shall meet at Cape Town.

Debate resumed.

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

6. *Mr. Walton*, as Chairman, brought up the report of the Committee appointed by resolution of the Convention dated

the 29th January, 1909, [page 235] on the precis of the Constitution, as follows:—

Summary of the Draft Constitution for South African Union.

The draft Constitution proposes to establish a United Government of the Cape Colony, Natal, Transvaal and Orange Free State or of any two or more of them, the name of the Union to be South Africa.

The supreme authority will be vested in one Parliament, and there shall be one Government and one Governor-General.

The several Colonies joining the Union are to form provinces, and will be managed by Provincial Councils in respect of local affairs.

Executive Government.

It is provided that the Executive Government shall consist of a Governor-General and a number of responsible Ministers, not exceeding ten.

Parliament.

It is provided that Parliament shall consist of a Senate of 40 members and a House of Assembly of 121 members.

Of the 40 Senators, the Governor-General nominates eight, one-half of whom will be selected for their knowledge of native affairs, and each province will elect eight. The first senators will be elected by the existing Parliaments in each Colony, and they will hold their seats for ten years. Thereafter senators will be elected by the members of the Provincial Councils and the members for each province in the House of Assembly, unless the Union Parliament decides otherwise. Senators must be thirty years of age, qualified to be voters, have five years residence in the Union, be British subjects of European descent, and be the owners of unincumbered immovable property to the value of £500. The 121 members of the House of Assembly are divided as follows among the several Colonies:—

Cape of Good Hope	51
Natal	17
Transvaal	36
Orange Free State	17

The number of members may be increased to 150 as the population increases. The basis of representation is the European male adult, and it is proposed to establish what is called a "quota" by dividing the total number of European male adults in the Union as shown by the Census of 1904 by the 121 members. A fresh census is to be taken in 1911 and every five years subsequently, and each province is entitled to one additional member for such "quota" of increase under certain conditions. The actual quota for the Union is 2,891. There may be no decrease in the members allotted to each province for ten years, or until the total of 150 members is reached, whichever is the longer period. Provision is made

for the readjustment of these figures in the event of any Colony not joining the Union. The principle of the right of duly qualified coloured and native people to vote in the Cape Colony is protected. Laws relating to the franchise and elections remain in force in the several provinces subject to this Act. The allotment of representatives in the various provinces will be carried out by a Commission of Judges, and constituencies shall as far as possible consist of three members, and shall be according to the number of voters. In carrying out this duty the Commission is allowed a discretionary power within fifteen per cent. The Commission will also deal with subsequent increases of members. A member of the House of Assembly must be qualified to be a voter, have resided for five years in the Union, and be a British subject of European descent.

In the event of the refusal of the Senate to pass a Money Bill which has been passed by the House of Assembly a joint sitting of both Houses may at once be held and a vote taken. If the Senate, however, refuses to pass a bill other than a Money Bill then a joint sitting may only be held in the next succeeding session.

Provinces.

The Provincial Government will be carried out by an Administrator appointed by the Governor-General-in-Council, an Executive Committee not exceeding five in number elected by the Provincial Council and a Provincial Council consisting of the same number of members as the House of Assembly, to be elected by the same electors. In the case of Natal and the Orange Free State, however, the Provincial Council shall consist of 25 members. The Provincial Council shall sit for three years, and may not be dissolved earlier. The Provincial Councils will deal with the following matters:

(i) Direct taxation within the province in order to raise a revenue for Provincial purposes.

(ii) The borrowing of money on the sole credit of the Province, with the consent of the Governor-General-in-Council and in accordance with regulations to be framed by Parliament.

(iii) Education, other than higher education, for a period of five years and thereafter until Parliament otherwise provides.

(iv) Agriculture, to the extent and subject to the conditions to be defined by Parliament.

(v) The establishment, maintenance and management of hospitals and charitable institutions.

(vi) Municipal institutions, divisional councils and other local institutions of a similar nature.

(vii) Local works and undertakings within the province other than railways, harbours and such works as extend beyond the borders of the Province and subject to the power of Parliament to declare any work a national work, and to pro-

vide for its construction by arrangement with the Provincial Council or otherwise.

(viii) Roads, outspans, ponts and bridges, other than bridges connecting two provinces.

(ix) Markets and pounds.

(x) Fish and game preservation.

(xi) The imposition of punishment by fine, penalty or imprisonment for enforcing any law or any ordinance of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

(xii) Generally all matters which in the opinion of the Governor-General-in-Council are of a merely local or private nature in the Province.

(xiii) All other subjects in respect of which Parliament shall delegate the power of making ordinances to the Provincial Council.

Finance.

A Commission consisting of one person from each province presided over by an Imperial officer shall be appointed to deal with the financial relations of the provinces and the Central Government, and in the meantime there shall be paid to the Provincial Councils from the Central Exchequer an annual sum equivalent to the estimates for education other than higher education for the year 1908-09, and such further sums as the Governor-General-in-Council may deem necessary.

Judiciary.

It is proposed to constitute a Supreme Court of South Africa, consisting of a Chief Justice, the ordinary Judges of Appeal, and the Chief Justices and other Judges of the several divisions of the Supreme Court of South Africa in the provinces.

The Appeal Court will consist of the Chief Justice, two ordinary Judges of Appeal and two temporary additional Judges of Appeal.

The Supreme Courts of the several Colonies shall become provincial divisions of the Supreme Court of South Africa and the Eastern Districts Court, the High Court of Griqualand and High Court of Witwatersrand, and the several Circuit Courts shall become local divisions of the Supreme Court.

All appeals from any Superior Court in the Union may be made only to the Appeal Court of South Africa, and appeal to the Privy Council may only be made after leave obtained from the Privy Council.

The Appellate Division of the Supreme Court shall sit in ....., or other places for the convenience of suitors.

All assets of the various Colonies shall be transferred to the Union Government, and all debts shall be valid as against the Union Government.

The control and management of all State railways, ports and harbours shall be vested in a Board of not more than three Commissioners and a Minister. The railways and har-

bours shall be managed on business principles, and shall keep separate accounts, and have the management of their own funds. Due regard shall be had for agricultural and industrial development, but Parliament shall make special provision for new works which may be constructed against the advice of the Board.

All elections dealt with in the Constitution are to be conducted on the principle of proportional representation, each voter having one transferable vote.

All laws in the several Colonies continue in force until amended by the Union Parliament.

Both the English and the Dutch languages shall be official languages of the Union, and shall be treated on a footing of equality and possess and enjoy equal freedom, rights and privileges.

All persons of European descent who have been naturalized in any of the Colonies shall be deemed to be naturalized within the Union.

All officers of the public service of the various Colonies become officers of the Union, and retain all rights and privileges now possessed by them. The management of the public service shall be under a public service commission to be appointed, and the service of no officer shall be dispensed with on account of his want of knowledge of either the English or Dutch language.

Parliament may alter the boundaries of provinces or divide them on the petition of the provinces concerned.

Parliament may amend the Constitution as it may deem fit, but the sections relating to the coloured and native franchise in the Cape Colony, the representation of provinces in Parliament and the equal rights of the English and Dutch languages can only be amended by a two-thirds majority.

Provision is made for the inclusion of new provinces and also for native territories and protectorates in the Union, and for the terms and conditions upon which this inclusion shall be carried out.

The Constitution will have to be passed as an Act of the Imperial Parliament on the petition of the several Colonial Parliaments.

In reference to the procedure to be followed for the adoption of the Constitution, the Convention recommends its submission to special sessions of the several Parliaments to be held on 30th March next.

7. Debate on motion on Union Capital continued.

With leave of the Convention,

Gen. Botha amended his amendment [page 238] by omitting the words "the Capital and."

Mr. Hull moved: That the capital and the seat of the Union shall be at some place on the Vaal River to be determined by Parliament, and in the meantime the seat of the Government of the Union shall be at Pretoria and the sessions of Parliament shall be held at Cape Town.

Dr. Smartt moved: That the Convention do suspend business now, at three o'clock, until half-past three o'clock p.m.

This motion was put and negatived.

Discussion resumed.

Business suspended at half-past three o'clock p.m.

Four o'clock p.m.

Business resumed.

Mr. Hyslop moved: That Pietermaritzburg shall be the capital.

Mr. Sauer moved, as an amendment to Mr. Hull's amendment: To omit the words "at some place on the Vaal River to be," and after "seat of the" to insert "administration of the."

After discussion,

With leave of the Convention,

This amendment and the amendment by Mr. Hull were withdrawn.

On the motion of Gen. Smuts,

The debate was adjourned until to-morrow.

7. On the motion of Gen. Botha, the Convention adjourned at twenty-five minutes to five o'clock p.m.

CAPE TOWN, *Tuesday*, 2nd *February, 1909.*

Ten o'clock a.m.

1. All the members were present, except Sir William Milton, and Gen. de Wet.

2. *Gen. Hertzog*, as Chairman of the Committee on the Dutch Draft of the South Africa Act, submitted a draft Act.

3. Adjourned debate on motion on the Union Capital resumed.

The President stated that when this debate was adjourned yesterday, the question before the Convention was a motion by Mr. Merriman:

The seat of the Executive Government of the Union shall be at Pretoria, and the seat of the Legislature shall be at Cape Town.

Upon which the following amendments had been moved:

By Gen. Botha: Pretoria shall be the seat of Government of the Union; the sessions of Parliament shall, however, be held at Cape Town.

By Mr. Jagger: The seat of the Government of the Union shall be at such one of the four towns, Cape Town, Pietermaritzburg, Pretoria or Bloemfontein as the voters of the Union may decide. For the purpose of obtaining such decision the names of the four towns above mentioned shall be submitted to the registered electors in the Union. Each elector shall have one single transferable vote, and the town which secures the largest number of votes shall be the one selected. Pending

such selection, which shall take place within one year from the establishment of the Union, Parliament shall meet at Cape Town.

By Mr. Hyslop: That Pietermaritzburg shall be the capital.

With leave of the Convention,

The motion proposed by Mr. Merriman and the amendments by Gen. Botha and Mr. Jagger were withdrawn.

The amendment proposed by Mr. Hyslop, which was now the main question, was put and negatived.

4. The Convention resumed the consideration of the draft Act.

Gen. Smuts moved: That the following be a new Clause to follow Clause Sixteen:—

17. Save as in section twenty-two excepted, Pretoria shall be the seat of Government of the Union.

Discussion ensued.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

5. Minutes of previous meeting confirmed.

6. Consideration of the draft Act continued.

The new Clause Seventeen (printed above) put and agreed to.

Gen. Smuts moved: That the following be a new clause to follow Clause Twenty:—

22. Cape Town shall be the seat of the Legislature of the Union.

Agreed to.

Gen. Smuts moved: That Clause Ninety-two (old 94A) read as follows:—

92. The seats of Provincial Government shall be:—

For Cape of Good Hope: Cape Town.

For Natal: Pietermaritzburg.

For Transvaal: Pretoria.

For Orange Free State: Bloemfontein.

Col. Greene moved, pursuant to notice: Should the existing capital of any Province be selected as the Capital of the Union the Provincial Capital shall be located in some other part of the province.

Discussion ensued.

Business suspended at one o'clock p.m.

Two o'clock p.m.

Business resumed.

The motion proposed by Col. Greene put and negatived.

The amendments to Clause Ninety-two put and agreed to.

The following amendments were then put and agreed to:—

Clause One Hundred and Seven (old 109),

To fill in the blank by inserting "Bloemfontein."

Title of Chapter X,

To omit "The Constitution" and substitute "This Act."

Gen. Smuts moved: That Clause One Hundred and Thirty-three (old Finance Clause 19), read as follows:—

133. In order to compensate Cape Town, Pietermaritzburg and Bloemfontein for any loss sustained by them in the form of diminution of prosperity or decreased rateable value by reason of the seat of government of the Union being placed at Pretoria and the seat of the Houses of Parliament at Cape Town, there shall be paid from the Consolidated Revenue Fund for a period not exceeding twenty-five years to the Municipal Councils of Pietermaritzburg and Bloemfontein a grant of two *per centum per annum* and to the Municipal Council of Cape Town a grant of one *per centum per annum* on the municipal debts of such towns as ascertained by the Controller and Auditor-General of the Union. One-half of such grant shall be applied to the redemption of the municipal debt of such towns. For the purpose of this section Cape Town shall be deemed to include the municipalities of Cape Town, Green Point and Sea Point, Woodstock, Mowbray, Rondebosch, Claremont, and Wynberg, and any sum payable under this section to Cape Town shall be paid to the Councils of those municipalities in proportion to their respective debts. Provided that the debts of the several municipalities shall be treated as not exceeding the following amounts:—

Cape Town and Suburbs...	£4,450,000
Pietermaritzburg	£1,219,000
Bloemfontein	£ 868,000

Provided further that at any time after the expiration of ten years the Governor-General-in-Council with the approval of Parliament may after due inquiry withdraw or reduce the grant to all or any of the towns in question.

Mr. van Heerden moved: That the Clause read as follows:

133. In order to compensate for losses which may be sustained by towns which at the establishment of the Union are the seats of government of their respective Colonies in the form of diminution of prosperity or decreased rateable value by reason of their ceasing wholly or in part to be such seats of government there shall be paid from the Consolidated Revenue Fund to the municipal councils of such towns for a period of 25 years the following annual grants, viz.:—Cape Town and suburbs, one per cent. on £4,450,000; Pietermaritzburg, two per cent. on £1,219,000; Pretoria, one per cent. on £500,000; and Bloemfontein, two per cent. on £868,000. One-half of such grants shall be applied to the redemption of the municipal debts of such towns respectively.

For the purposes of this section Cape Town shall be deemed to include the municipalities of Cape Town, Green Point and Sea Point, Woodstock, Mowbray, Rondebosch, Claremont and Wynberg, and the grant made to Cape Town and suburbs shall be payable to the councils of such municipalities in proportion to their respective debts. Provided that at any time

after the expiration of ten years the Governor-General-in-Council, with the approval of Parliament, may after due inquiry withdraw or reduce the grant to all or any of the said towns.

Dr. Smartt moved: That the drafting Committee be requested to prepare a clause on the basis of the proposal by Mr. Hull, on page 189, with a further proviso that the amount of compensation to be paid to Pietermaritzburg and Bloemfontein shall not be less than two per cent.

This motion put and agreed to.

On the motion of Gen. Smuts,

Business was suspended at five minutes to three o'clock p.m.

A quarter to four o'clock p.m.

Business resumed.

The President, as Chairman of the Drafting Committee, submitted the following:—

133. In order to compensate Pietermaritzburg and Bloemfontein for any loss sustained by them in the form of diminution of prosperity or decreased rateable value by reason of their ceasing to be the seats of government of their respective Colonies there shall be paid from the Consolidated Revenue Fund for a period not exceeding 25 years to the municipal councils of such towns a grant of two *per centum per annum* on their municipal debts as existing on the 31st January, 1909, and ascertained by the Controller and Auditor-General. The Commission appointed under section one hundred and sixteen shall after due inquiry report to the Governor-General-in-Council what compensation should be paid to the municipal councils of Cape Town and Pretoria for the losses, if any, similarly sustained by them. Such compensation shall be paid out of the Consolidated Revenue Fund for a period not exceeding 25 years and shall not exceed one *per centum per annum* on the respective municipal debts of such towns as existing on the 31st January, 1909, and ascertained by the Controller and Auditor-General.

For the purposes of this section Cape Town shall be deemed to include the municipalities of Cape Town, Green Point and Sea Point, Woodstock, Mowbray, Rondebosch, Claremont, and Wynberg, and the grant made to Cape Town and suburbs shall be payable to the Councils of such Municipalities in proportion to their respective debts.

One-half of the aforesaid grants shall be applied to the redemption of the municipal debts of such towns respectively.

At any time after the tenth annual grant has been paid to any of the said towns the Governor-General-in-Council, with the approval of Parliament, may after due inquiry withdraw or reduce the grant to such town.

With leave of the Convention,

The amendment proposed by Gen. Smuts [page 246] was withdrawn, and the amendment proposed by Mr Van Heerden [pages 246-247] dropped.

Mr. Jagger moved: To omit "and shall not exceed one *per centum per annum*."

This amendment put and negatived.

The proposed new clause put and agreed to.

Clause One Hundred and Thirty-four (old 117) standing over [page 191] was put and negatived.

The following amendments were put and agreed to:—

Clause Thirty-nine (old 42): To omit "subject to the provisions of section thirty-one."

Clause One Hundred and Fifty-One (old 133): To omit "in the last preceding section mentioned" and substitute "the territories administered by the British South Africa Company."

7. *The President* intimated that the Second Order of the Day—Consideration of Resolution No. 12 of Report of Provincial Constitutions Committee (Provincial Capitals) to be resumed—the further consideration of which was ordered to stand over on the 3rd December [page 110], would now drop.

8. *Col. Greene* moved: That the draft Act be not published before eight o'clock on Tuesday evening, the 9th instant.

Agreed to.

9. *Mr. Merriman* moved: That all the minutes of the proceedings of the Convention be destroyed.

Gen. Smuts moved: That the minutes of proceedings be treated as private and confidential.

Sir George Farrar moved: To add "and that they be left in the custody of the Chief Secretary."

After discussion,

With leave of the Convention,

The amendment proposed by Sir George Farrar was withdrawn.

The motion proposed by Gen. Smuts put and agreed to, and that proposed by Mr. Merriman dropped.

10. On the motion of Mr. Sauer, the Convention adjourned at five o'clock p.m.

CAPE TOWN, *Wednesday*, 3rd *February, 1909.*

Half-past Ten o'clock a.m.

1. All the members were present, except Sir William Milton, Mr. Steyn, Gen. de Wet, Mr. Coghlan, and Mr. Malan.

2. The Convention had under consideration the question of what communication should be made to the Press in regard to the conclusions arrived at, and it was resolved that the information to be given should be confined to the resolution adopted yesterday (printed above) in regard to the publication of the draft Act on the 9th instant, and the meeting of the several Parliaments to discuss it on the 30th March.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

3. Minutes of previous meeting confirmed.

4. *The President* submitted a report containing the draft Act which was signed by the delegates present, and ordered to be transmitted for signature to those who were absent from to-day's meeting. [Appendix F, pages 312-345].

5. *Mr. Merriman* moved: The Convention desires to place on record an expression of its cordial thanks to the Right Honourable Sir Henry de Villiers for the able and impartial services rendered by him as President throughout the two sessions of the Convention.

Agreed to.

Sir Henry de Villiers, in thanking the Convention for the unanimous vote just agreed to, said how greatly he appreciated the very high honour which had been conferred upon him by his election to preside over this Convention. He must express his thanks for the reference which had been made by delegates to any assistance which he had been able to render by departing from the ordinary routine of a President's duties and participating in the discussions which had arisen. He had at an early stage of their proceedings recognised the advantage of not adhering too closely to Parliamentary form, and he believed that by conducting the proceedings of the Convention in a somewhat informal manner the business before them had been considerably expedited. He desired to thank the delegates for the invariable support which they had individually afforded to him in the Chair.

6. *Gen. Botha* moved: This Convention has great pleasure in giving expression to its high appreciation of the excellent arrangements made by the Government of the Cape of Good Hope, with the courteous concurrence of the President of the Legislative Council and the Speaker of the House of Assembly, for the convenience and comfort of the members and staffs of the Convention during the sittings in Cape Town.

Agreed to.

7. *Mr. Moor* moved: This Convention desires to acknowledge the courtesy and hospitality extended to it by His Worship the Mayor and the Town Council of Cape Town during the sessions just concluded.

Agreed to.

8. *Mr. Fischer* moved: This Convention hereby expresses its appreciation of the services rendered to the Secretariat both during the Durban and the Cape Town sessions by certain officers of the public service of the various Colonies.

Agreed to.

9. *Gen. Smuts* moved: The thanks of the Convention are due to the Chief Secretary and the other Secretaries as well as to the legal advisers whose arduous labours have so materially contributed to the successful work of the Convention.

Agreed to.

10. On the motion of Mr. Sauer,

The Convention then adjourned at a Quarter to Twelve o'clock a.m.

BLOEMFONTEIN,

Monday 3rd *May, 1909.*

Ten o'clock a.m.

1. The Delegates assembled in the Legislative Assembly Chamber, Houses of Parliament, Bloemfontein, in accordance with the adjournment on the 3rd February from Cape Town.

2. All the members were present, except Sir Lewis Michell.

3. Minutes of previous meeting confirmed.

4. *The President* read and put in:—

(1) Letter, dated the 8th March, 1909, from His Excellency the High Commissioner, on the subject of the provision in the draft South Africa Act relating to the assent by the Governor-General to Bills passed by Parliament, together with a copy of the President's reply, dated the 16th March.

(2) Letter, dated the 12th March, 1909, from the Honourable Mr. Justice Kotze, forwarding a memorandum by the Judge-President and the Puisne Judges of the Eastern Districts Court, with reference to certain proposed amendments in the draft South Africa Act, together with a copy of the President's reply, dated the 16th March.

(3) Letter, dated the 3rd May, 1909, from the Prime Minister of the Orange River Colony, transmitting a resolution adopted by the Legislative Assembly of that Colony, but not concurred in by the Legislative Council, on the necessity of defining the terms "sparsely populated areas" and "sparsity and density of population."

(4) Letter, dated the 27th April, 1909, from Lord Selborne, conveying a message to the Convention from the Right Honourable the Secretary of State for the Colonies, expressing the willingness of His Majesty's Government to receive at Westminister any of the delegates in reference to the Bill to be brought before the Imperial Parliament and intimating the most convenient time for the purpose.

(5) Letter, dated the 8th March, 1909, from the Chairman of a mass meeting of coloured citizens and registered voters held at Wellington on the 5th March, 1909, on the subject of the preservation of their political rights and privileges, together with a copy of the Chief Secretary's reply, dated the 24th March.

4a. *Mr. Merriman* presented a petition from R. Samuels, styling himself President of the Wynberg Coloured Men's Political Association, praying that their rights as qualified electors under the existing Constitution may be preserved.

5. *The President* stated that the Prime Ministers of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony had respectively communicated to the Chief Secretary, in letters dated the 26th, 23rd and 7th April and the 1st May, the resolutions agreed to by the Parliaments of those Colonies in regard to the draft South Africa Act, and that these resolutions and the amendments proposed by the Cape of Good Hope, Natal, and the Orange River Colony had

been printed and circulated by the Chief Secretary in a memorandum, a copy of which the President now laid on the Table. [Printed as Appendix G—pages 345-349].

6. *Mr. Hull* moved, as an unopposed motion: That the Finance Committee be reappointed, and that certain correspondence which has passed between His Majesty's Government and the Transvaal Government on the effect of the Financial Clauses in the draft Constitution be referred to the Committee; the Committee consisting of: *Cape of Good Hope*, Mr. Sauer (chairman), Mr. Jagger; *Natal*, Mr. Hyslop (with Col. Greene and Mr. Watt as alternates); *Transvaal*, Mr. Hull, Sir G. Farrar; and *Orange River Colony*, Mr. Fischer, Mr. Browne.

Agreed to.

7. A general discussion was raised on the form of procedure to be adopted during the present session of the Convention.

8. *Gen Smuts* moved, as an unopposed motion: That during the Bloemfontein session the Convention meet at 10 o'clock a.m., suspend business at 11 o'clock until a quarter past, and again from 1 o'clock p.m. until half-past 2 o'clock, and adjourn at 5 o'clock p.m.

Agreed to.

9. With leave of the Convention, Mr. Hull made a statement on the position of the South African Governments in relation to the Conference Steamship Lines.

10. Business suspended at a quarter to 11 o'clock a.m.

Half-past two o'clock p.m.

Business resumed.

11. *Mr. Moor* moved, as an unopposed motion: That Mr. J. M. Hershensohnn be appointed Acting Secretary for Natal during the detention in Natal of Mr. Plowman.

Agreed to.

12. *Gen. Smuts* gave notice of certain amendments to the Draft Act proposed by the Transvaal, as follows:

Section 6.

After "them" insert "or any place in them."

Section 23.

In the first paragraph after "shall" insert "in respect of the original provinces."

Section 26.

After "writing" insert "under his hand."

Section 35.

After "so registered" insert "in the province of the Cape of Good Hope."

Section 37, Sub-section 1.

After "proceedings at elections" insert "election expenses, corrupt and illegal practices."

Section 46.

After "writing" insert "under his hand."

Section 56.

Delete "three" and insert "five."

Section 70.

To make present section into sub-section (i) and to add a new sub-section (ii):

(ii) Any person qualified to vote for the election of members of the Provincial Council shall be qualified to be a member of such Council.

Section 75.

After "elect" delete "its own" and insert "from among its members a."

Section 85.

In sub-section (vii.) after "railways" insert "and"; after "Harbours and" insert "other than."

Section 95.

Delete "Chief Justices and other."

Section 98 (1).

After "Provinces" insert "and shall each be presided over by a Judge-President."

Section 99.

At end insert "The Chief Justices of the Colonies holding office at the establishment of the Union shall on such establishment become the Judges-President of the divisions of the Supreme Court in the respective Provinces, but shall so long as they hold that office retain the title of Chief Justice of their respective Provinces."

Section 103.

In every civil case in which at the establishment of the Union, an appeal might have been made to the Supreme Court of any of the Colonies, from a Superior Court in any of the Colonies, or from the High Court of Southern Rhodesia, the appeal shall be made only to the Appellate Division of the Supreme Court of South Africa; except in the case of orders given upon motions or applications. The appeal from any such orders as well as any appeal in criminal cases from any such superior Court, or the special reference by any such Court of any point of law in a criminal case shall be made to the Provincial Division corresponding to the Court which before the establishment of Union would have had jurisdiction in the matter. There shall be no further appeal against any order or judgment given on appeal by such Provincial Division except to the Appellate Division by special leave of such Provincial Division.

Section 114.

Delete "in the opinion of the Chief Justice of South Africa."

Section 130.

At the beginning insert "Notwithstanding anything to the contrary in the last preceding section."

Section 139.

Delete "of European descent."

Section 140.

To be deleted.

Section 145.

After "time at" insert "which he would have been entitled by law to retire."

13. The Convention proceeded to the consideration of the resolutions and amendments adopted by the several Parliaments of South Africa, as set forth in the return laid on the Table to-day [Appendix G, pages 345-349], together with the amendments now put in by General Smuts [pages 251-253], the amendments now to be taken in sequence of sections.

On Section Six,*

Gen. Smuts moved: After "them" to insert "or of any place in them."

Agreed to.

On Section Twenty-three,

Gen. Smuts moved: After "shall" to insert "in respect of the original provinces."

Agreed to.

Mr. Merriman moved: At the end of sub-section (ii) to omit "for ten years" and substitute "until the completion of the period for which the person in whose stead he is nominated would have held his seat."

After discussion,

This amendment was put and negatived.

On Section Twenty-six,

Gen. Smuts moved: After "writing" to insert "under his hand."

Agreed to.

On Section Thirty-two,

Mr. Hyslop moved: After the word "diminished" to omit the words "until the total number of members of the House of Assembly in respect of the Provinces herein provided for reaches one hundred and fifty, or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period."

†Agreed to.

On Section Thirty-three,

The President moved: In sub-sections (i) and (vii) to omit "not being members of His Majesty's regular forces on full pay" and to insert those words at the end of sub-section (vi).

Agreed to.

On Section Thirty-five,

Gen. Smuts moved: After "so registered" to insert "in the Province of the Cape of Good Hope."

Agreed to.

On Section Thirty-seven,

* The numbers of sections referred to throughout the Bloemfontein session are those contained in the Draft Act printed as Appendix F—pages 312-345.

† The words here omitted were subsequently restored—see page 271. G.R.H.

Gen. Smuts moved: In sub-section (1) after "proceedings at elections" to insert "election expenses, corrupt and illegal practices."

Agreed to.

The Convention reverted to Section Thirty-five.

Mr. Merriman moved: To omit "who under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union is or may become capable of being registered as a voter"; after "being" to omit "so," and after "registered" to insert "as a voter."

After discussion,

This amendment was put and negatived.

On Section Thirty-eight,

The President moved: To omit "who nominated him" and substitute "of the Colony in respect of which he was nominated."

Agreed to.

Mr. Merriman moved: That the amendments proposed by the Cape of Good Hope to sections 39 and 40 [Appendix G, pages 345-349] stand over.

Sir Percy Fitzpatrick objected.

On the motion of Sir George Farrar, the further consideration of the draft South Africa Act was adjourned until tomorrow.

14. On the motion of Mr. Sauer, the Convention adjourned at four o'clock p.m.

BLOEMFONTEIN, *Tuesday* 4th *May, 1909.*

Ten o'clock a.m.

1. All the members were present, except Sir Lewis Michell.

2. *Mr. Fischer* put in a certified copy of a resolution adopted at a public meeting held in Bloemfontein on the 18th March, 1909, in reference to the establishment of the most important railway workshops of the Union in the Orange River Colony.

By direction of the President, the resolution was read.

3. Consideration of amendments to draft South Africa Act resumed.

The President stated that when these amendments were under consideration yesterday it had been moved that the amendments proposed by the Cape of Good Hope to sections 39 and 40 stand over, and that this motion had been objected to.

Gen. Smuts moved: That the Convention revert to section thirty-two.

Mr. Hyslop objected.

After discussion, this objection was withdrawn, and the motion was put and agreed to.

Gen. Smuts moved: That the amendment to section thirty-two adopted yesterday on the motion of Mr. Hyslop [page 253] be negatived.

After discussion,
This motion was put, and the Convention divided:

"AYES," 14.	"NOES," 16.
Botha, Gen.	Beck, Dr.
Burger, Gen.	Browne, Mr.
De la Rey, Gen.	De Villiers, Sir J. H.
Farrar, Sir G. H.	De Wet, Gen.
Fitzpatrick, Sir J. P.	Fischer, Mr.
Hull, Mr.	Greene, Col.
Jagger, Mr.	Hertzog, Gen.
Jameson, Dr.	Hyslop, Mr.
Lindsay, Mr.	Merriman, Mr.
Maasdorp, Mr.	Moor, Mr.
Malan, Mr.	Sauer, Mr.
Smuts, Gen.	Smartt, Dr.
Van Heerden, Mr.	Smythe, Mr.
Walton, Mr.	Stanford, Col.
	Steyn, Mr.
	Watt, Mr.

The motion accordingly negatived.
Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.
4. Minutes of previous meeting confirmed.
5. Consideration of amendments to draft South Africa Act continued.
Mr. Merriman moved: That the further consideration of section thirty-two stand over.†
Agreed to.
On Section Forty,
Mr. Fischer moved: To add the following new sub-section:
(iv) In carrying out the provisions of section thirty-nine, and of this section the Commission shall regard areas containing one registered voter or less to the square mile as extremely sparsely populated; and areas containing ten registered voters or over to the square mile as extremely densely populated. In extremely sparsely populated areas the full fifteen per cent. shall be deducted from the quota, and the multiple of the quota referred to in sub-section (ii) of this section shall be 1. In extremely densely populated areas the full fifteen per cent. shall be added to the quota. The Commission shall in regard to areas not being either extremely densely or extremely sparsely populated deal with the same as far as practicable on a sliding scale of departure from the quota within the limit of percentage as above fixed.
Discussion ensued.
Business suspended at one o'clock p.m.

† See page 271. G.R.H.

Half-past two o'clock p.m.

Business resumed.

After discussion,

On the motion of Mr. Sauer, the consideration of the amendments to the draft Act was adjourned.

6. On the motion of Mr. Sauer, the Convention adjourned at five o'clock p.m.

BLOEMFONTEIN, *Wednesday*, 5th *May*, *1909*.

Ten o'clock a.m.

1. All the members were present, except Sir Lewis Michell.

2. Consideration of amendments to draft South Africa Act resumed.

The President stated that when these amendments were under consideration yesterday a new sub-section (iv) to section 40 had been moved by Mr. Fischer, as printed on page 255 of the Proceedings.

The President moved: To omit sub-section (ii), and substitute the following:

"(ii) Each Province shall be divided into electoral divisions in such a manner that each such division shall, subject to the provisions of sub-section (iii) of this section, contain a number of voters as nearly as may be equal to the quota of the Province."

Discussion ensued.

Business suspended at eleven o'clock a.m.

Quarter-past eleven o'clock a.m.

Business resumed.

3. Minutes of previous meeting confirmed.

4. Consideration of amendments to draft South Africa Act continued.

On the motion of Mr. Merriman, the consideration of the amendments to the draft South Africa Act was adjourned.

5. On the motion of Gen. Botha, the Convention adjourned at a quarter to twelve o'clock a.m. until to-morrow at ten o'clock a.m.

BLOEMFONTEIN, *Thursday*, 6th *May*, *1909*.

Ten o'clock a.m.

1. All the members were present, except Sir Lewis Michell.

2. *Mr. Malan* presented a petition from W. A. Krige, W. H. Lategan, and C. W. H. Kohler, on behalf of a meeting of wine farmers, held in Cape Town on the 14th April last, praying that speedy and effective relief may be afforded to their industry.

On the motion of Mr. Malan, the petition was read.

3. *The President* put in a letter, dated 30th April, 1909, from the Most Reverend the Archbishop of Cape Town and

several of the clergy of other denominations on the subject of the position and privileges of the coloured people and native races.

By direction of the President, the letter was read.

4. *The President* put in a letter, dated the 3rd instant, from the General Secretary of the African Political Organization, forwarding copies of nine resolutions adopted at a conference of the organization recently held in Cape Town on the subject of the due protection of the rights of the coloured people in a union of South Africa.

5. *The President* put in a letter, dated the 30th April, 1909, from the Resident Magistrate of Thaba' Ncho, forwarding a petition from the natives in that district on the same subject.

6. Consideration of amendments to draft South Africa Act resumed.

The President stated that when these amendments were under consideration yesterday a new sub-section (iv) to section 40 had been moved by Mr. Fischer, as printed on page 255 of the Proceedings, which Mr. Fischer, with leave, now amended, as follows:

(iv) In carrying out the provisions of section thirty-nine and of this section the Commission shall regard areas containing one registered voter or less to the square mile as extremely sparsely populated; and areas containing ten registered voters or over to the square mile as extremely densely populated. The Commission shall, as far as circumstances permit, so delimit the electoral divisions that in extremely sparsely populated areas the full fifteen per cent. shall be deducted from the quota, and the multiple of the quota referred to in sub-section (ii) of this section shall be 1; and that in extremely densely populated areas the full fifteen per cent. shall be added to the quota. The Commission shall in regard to areas not being either extremely densely or extremely sparsely populated deal with the same as far as practicable on a sliding scale of departure from the quota within the limits of percentage as above fixed.

The President further stated that he had moved to omit sub-section (ii), and substitute the following:

"(ii) Each Province shall be divided into electoral divisions in such a manner that each such division shall, subject to the provisions of sub-section (iii) of this section, contain a number of voters as nearly as may be equal to the quota of the Province."

On the motion of Gen. Smuts, the further consideration of the amendments was adjourned until the afternoon sitting.

7. *Gen. Smuts* moved: That the following proposed new clauses 126a and 149a be referred to the Finance Committee, viz.:

126a. Subject to the continuance of all laws in force at the establishment of the Union until repealed or amended by Parliament, there shall be absolute free trade throughout the Union.

149a. The products of any country outside the Union, the growth or manufacture of which may be assisted directly or indirectly by any bounty or equivalent thereto shall be subject on admission to any part of the Union to an impost at least equal to the amount of such bounty or equivalent, the intention being that no part of the Union shall in regard to commerce, industry, or agriculture, be placed in a worse position than any country without the Union.

Agreed to.

Mr. Walton moved: That the question of the new ocean mail contract be also referred to the Finance Committee.

Agreed to.

On the motion of Sir George Farrar, Gen. Smuts was appointed an alternate for the mover on the Finance Committee.

8. On the motion of Gen. Smuts, business was suspended at twenty minutes past ten o'clock a.m.

Half-past two o'clock p.m.

Business resumed.

9. Minutes of previous meeting confirmed.

10. *Mr. Sauer*, as Chairman, brought up the First Report (Bloemfontein) of the Finance Committee, reappointed by resolution of the Convention dated 3rd May, 1909 [page 251] as follows:—

Your Committee, having considered the matters referred to them, beg to recommend that the following reply be sent to the High Commissioner for transmission to the Right Honourable the Secretary of State for the Colonies to his telegram on the subject of certain of the financial clauses in the Draft Act, viz.:—

Referring to your telegram No. 2 of 16th ultimo, the South African National Convention have considered the same, and authorise me to say that when the financial clauses in Draft Constitution were framed it was clear intention completely to safeguard the rights of stockholders of the various Colonial loans, including the preferences enjoyed by the various stockholders, and if the wording of the clauses does not convey this intention there is no objection to making it quite clear. It is impossible to accept suggestion of Imperial Treasury that the Guaranteed Loans should have priority on general revenue and assets of Union. Holders of non-guaranteed stock will naturally object to preference of guaranteed stock being extended to whole of Union revenue and assets to the prejudice of their securities. The Convention consider objections raised by Treasury can be met by re-drafting financial clauses as follows:—

Section 119.—To omit the section.

Section 120.—To omit "the second" and substitute "a first."

Section 121.—To omit the section.

Section 126.—To omit the section and substitute the following:

126. The Union shall assume all debts and liabilities of the Colonies existing at its establishment subject to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund and other charges conferred on the creditors of any of the Colonies, and may, subject to such conditions and rights, convert, renew or consolidate such debts.

It is not intended to keep separate accounts of the transferred revenue and assets, nor can stock holders claim this unless the Union makes default in carrying out the obligations imposed by the laws under which loans were raised. As under the above amendments the rights and securities of all stock holders remain unimpaired it seems unnecessary to discuss the question of the relative assets and liabilities of the Colonies to be united. Convention hope these amendments will overcome difficulties raised by Treasury and they will accordingly give effect to them in the present sitting.

Your Committee further recommend the following amendment to Section 129 of the Draft Act, viz.:—

To omit all the words from "The Governor-General-in-Council" to the end and insert the following:—"The Governor-General-in-Council shall give effect to the provisions of this section as soon as and at such time as the necessary administrative and financial arrangements can be made but in any case shall give full effect to them before the expiration of four years from the establishment of the Union. During such period if the revenues accruing to the Consolidated Revenue Fund are insufficient to provide for the general service of the Union, and if the earnings accruing to the Railway and Harbour Fund are in excess of the outlays specified herein Parliament may by law appropriate such excess or any part thereof towards the general expenditure of the Union, and all sums so appropriated shall be paid over to the Consolidated Revenue Fund.

Mr. Sauer moved, as an unopposed motion: That the first part of the Report [pages 258-259] be now considered.

Agreed to.

The proposed reply to the Right Honourable the Secretary of State for the Colonies and the consequent amendments were then put and agreed to.

Mr. Sauer moved: That the proposed amendment to section 129 be considered to-morrow.

Agreed to.

H. *The President* intimated that an invitation had been received from His Worship the Mayor and the Town Council of Bloemfontein to visit the adjacent waterworks on Saturday.

On the motion of Gen. Smuts, it was resolved to inform His Worship that in consequence of the urgency of the work still remaining to be done the Convention would reluctantly be obliged to decline this invitation.

12. Consideration of amendments to draft South Africa Act continued.

After discussion,

On the motion of Mr. Hyslop, the consideration of the amendments was adjourned.

13. On the motion of Mr. Malan, the Convention adjourned at ten minutes to five o'clock p.m.

BLOEMFONTEIN, *Friday*, 7th *May*, *1909*.

Ten o'clock a.m.

1. All the members were present, except Sir Lewis Michell.

2. Consideration of amendments to draft South Africa Act resumed.

The President stated that when these amendments were under consideration yesterday a new sub-section (iv) to section 40 had been moved by Mr. Fischer, as printed on page 257 of the Proceedings, and that he had moved to substitute a new sub-section (ii) as printed on page 256 of the Proceedings.

Gen. Botha moved: That Sections 39 and 40 and all other provisions in connection therewith be referred to a Committee consisting of two delegates appointed by the Prime Minister of each Colony, and one from Rhodesia, the President to be Chairman.

Agreed to.

3. The Committee was then nominated as follows:—*Cape of Good Hope*, Mr. Sauer, Dr. Jameson: *Natal*, Mr. Moor, Col. Greene; *Transvaal*, Gen. Smuts, Sir George Farrar; *Orange River Colony*, Mr. Steyn, Mr. Fischer, and *Rhodesia*, Mr. Coghlan.

3. On the motion of Mr. Jagger, business was suspended until half-past two o'clock p.m.

Quarter to three o'clock p.m.

Business resumed.

4. Minutes of previous meeting confirmed.

5. *The President*, as Chairman, brought up the report of the Committee appointed this morning (see above), to consider sections 39 and 40 and all other provisions in connection therewith, as follows:—

Your Committee have the honour to report that in their opinion the amendments proposed by the President to sections 39 and 40 should be adopted. Your Committee are further of opinion that the following amendment should be made in the sixty-fourth section by adding the following after the word "pleasure":—"All Bills repealing or amending this section or any of the provisions of Chapter IV. under the heading 'House of Assembly' shall be so reserved."

With leave of the Convention,

The amendment proposed by Mr. Fischer to Section Forty [page 257] was withdrawn.

On the motion of Mr. Sauer,

The Convention reverted to Section Thirty-nine.

The President moved: To omit all the words after "returning" and insert "one member."

Agreed to.

The Convention reverted to Section Forty.

The amendment proposed by the President [page 256] was put and agreed to.

On Section Forty-six.

Gen. Smuts moved: After "writing" to insert "under his hand."

Agreed to.

On Section Fifty-three.

Mr. Sauer moved: In sub-section (a), after "received" to insert "a grant of amnesty or."

Agreed to.

The President moved: In sub-section- (a) to omit "treason, murder or."

Mr. Watt moved: Before "offence" to insert "crime or."

These amendments put and agreed to.

On Section Fifty-six.

Gen Smuts moved: To omit "three" and substitute "four."

After discussion,

This amendment was put, and the Convention divided:

"AYES"—19.	"NOES"—11.
Botha, Gen.	Beck, Dr.
Browne, Mr.	Fischer, Mr.
Burger, Gen.	Jagger, Mr.
De la Rey, Gen.	Jameson, Dr.
De Villiers, Sir J. H.	Malan, Mr.
De Wet, Gen.	Merriman, Mr.
Farrar, Sir G. H.	Sauer, Mr.
Fitzpatrick, Sir J. P.	Smartt, Dr.
Greene, Col.	Stanford, Col.
Hertzog, Gen.	Steyn, Mr.
Hull, Mr.	Walton, Mr.
Hyslop, Mr.	
Lindsay, Mr.	
Maasdorp, Mr.	
Moor, Mr.	
Smuts, Gen.	
Smythe, Mr.	
Van Heerden, Mr.	
Watt, Mr.	

The amendment accordingly agreed to.

Sir George Farrar moved: To omit "two" pounds and substitute "three."

Agreed to.

Col. Greene moved: To add "no such allowance shall be made to any member residing within fifty miles of the seat of the Legislature."

This amendment was put and negatived.

On Section Sixty-four,

The President moved: After "Act" to insert "and to such instructions as may from time to time be given in that behalf by His Majesty, his heirs or successors."

Agreed to.

The President moved: After "pleasure" to insert: "All Bills repealing or amending this section or any of the provisions of Chapter IV. under the heading 'House of Assembly' shall be so reserved."

Agreed to.

On Section Seventy.

Gen. Smuts moved: That this section be divided into two sub-sections, the first remaining as printed and the second being a new sub-section as follows:—

(ii) Any person qualified to vote for the election of members of the Provincial Council shall be qualified to be a member of such Council.

After discussion,

This amendment was put and agreed to.

On Section Seventy-three,

Mr. Merriman moved: To omit "three" years and substitute "five."

This amendment put and negatived.

On Section Seventy-five,

Gen. Smuts moved: After "elect" to omit "its own" and substitute "from among its members a."

Agreed to.

On Section Eighty-two.

Mr. Hyslop moved: After "present" to omit the words "and in case of an equality of votes the Administrator shall have also a casting vote" and substitute "other than the Administrator, who shall, however, have and exercise a casting vote in the case of an equality of votes."

Discussion ensued.

On the motion of Mr. Fischer, the consideration of the amendments was adjourned.

6. On the motion of Mr. Fischer, the Convention adjourned at ten minutes to five o'clock p.m.

BLOEMFONTEIN, *Saturday*, 8th *May*, *1909*.

Ten o'clock a.m.

1. All the members were present except Sir Lewis Michell.

2. *Mr. Sauer* presented a petition from J. A. Sishuba, of Kamastone, praying that the clauses in the draft South Africa Act relating to the coloured people may be expunged.

3. *The President* read and put in a letter from the High Commissioner dated the 4th instant on the subject of the position, under Union, of the Land Settlement Boards in the Transvaal and Orange River Colony.

Resolved: That the President inform Lord Selborne that the Convention agrees with the views expressed by His Excellency in the letter just read.

4. *The President* put in a letter dated the 4th instant from the Rev. E. O. Barratt, Wesleyan Minister at Tsomo, in similar terms to that already put in from the Most Rev. the Archbishop of Cape Town and others.

5. Consideration of amendments to draft South Africa Act resumed.

The President stated that when these amendments were under consideration yesterday the following amendment had been moved by Mr. Hyslop on Section Eighty-two [page 262]: After "present" to omit the words "and in case of an equality of votes the Administrator shall have also a casting vote" and substitute "other than the Administrator, who shall, however, have and exercise a casting vote in the case of an equality of votes."

Discussion ensued.

Business suspended at a quarter-past eleven o'clock a.m.

Half-past eleven o'clock a.m.

Business resumed.

6. Minutes of previous meeting confirmed.

7. Consideration of amendments to draft South Africa Act continued.

On the motion of Gen. Hertzog, the Convention reverted to Section Seventy-eight.

Mr. Jagger moved: After "otherwise" to omit from "such number" down to "Province" and substitute "four persons."

Agreed to.

With leave of the Convention, the amendment proposed by Mr. Hyslop to Section Eighty-two [page 262] was withdrawn.

On Section Eighty-five.

Gen. Smuts moved: In sub-section (vii) after "railways" to insert "and" and after "Harbours and" to insert "other than."

Agreed to.

On Section Ninety-five.

Gen. Smuts moved: To omit "Chief Justices and."

Agreed to.

On Section Ninety-six.

The President moved: After "shall" to omit "from time to time be temporarily" and substitute "be," and after "Provincial" to insert "or Local."

Agreed to.

On Section Ninety-seven.

The President moved: To omit the section and substitute the following:

97. The Governor-General-in-Council may during the absence, illness or other incapacity of the Chief Justice of South Africa, or any Ordinary or Additional Judge of Appeal, appoint any other Judge of the Supreme Court of South Africa to act temporarily as such Chief Justice, Ordinary Judge of Appeal or Additional Judge of Appeal as the case may be.

Agreed to.

On Section Ninety-eight.

Gen. Smuts moved: In sub-section (i) after "Provinces" to insert "and shall each be presided over by a Judge-President."

Agreed to.

On Section Ninety-nine,

Gen. Smuts moved: To add at the end "The Chief Justices of the Colonies holding office at the establishment of the Union shall on such establishment become the Judges-President of the divisions of the Supreme Court in the respective Provinces, but shall so long as they hold that office retain the title of Chief Justice of their respective Provinces."

Agreed to.

On Section One Hundred and Three,

Gen. Smuts moved: That the section read as follows:—

103. In every civil case in which, at the establishment of the Union, an appeal might have been made to the Supreme Court of any of the Colonies from a Superior Court in any of the Colonies, or from the High Court of Southern Rhodesia, the appeal shall be made only to the Appellate Division of the Supreme Court of South Africa; except in cases of orders or judgments given upon application by way of motion or petition or on summons for provisional sentence or judgments as to costs only which by law are left to the discretion of the Court. The appeal from any such orders or judgments as well as any appeal in criminal cases from any such Superior Court, or the special reference by any such Court of any point of law in a criminal case shall be made to the Provincial Division corresponding to the Court which before the establishment of Union would have had jurisdiction in the matter. There shall be no further appeal against any judgment given on appeal by such Provincial Division except to the Appellate Division by its special leave.

Mr. Hull moved: To omit "by its special leave" and after "except" to insert "by special leave of such Provincial Division."

Upon which the Convention divided:

"AYES"—12.	"NOES"—17.
Burger, Gen.	Beck, Dr.
De la Rey, Gen.	Browne, Mr.
Farrar, Sir G. H.	De Villiers, Sir J. H.
Fitzpatrick, Sir J. P.	De Wet, Gen.
Greene, Col.	Fischer, Mr.
Hull, Mr.	Hertzog, Gen.
Hyslop, Mr.	Jagger, Mr.
Lindsay, Mr.	Jameson, Dr.
Moor, Mr.	Maasdorp, Mr.
Smuts, Gen.	Malan, Mr.
Smythe, Mr.	Merriman, Mr.
Watt, Mr.	Sauer, Mr.
	Smartt, Dr.
	Stanford, Col.
	Steyn, Mr.
	Van Heerden, Mr.
	Walton, Mr.

This amendment accordingly negatived.

The amendment proposed by Gen. Smuts put and agreed to.

On Section One Hundred and Eight.

The President moved: To omit the section and substitute the following:

108. The Chief Justice and other Judges of the Supreme Court of South Africa may, subject to the approval of the Governor-General-in-Council, frame rules for the conduct of the proceedings of the several Provincial and Local Divisions. Until such rules shall have been promulgated the rules in force at the establishment of the Union in the respective Courts which become Divisions of the Supreme Court of South Africa shall continue to apply therein.

Agreed to.

Business suspended at one o'clock p.m.

Half-past two o'clock p.m.

Business resumed.

On Section One Hundred and Twelve.

Mr. Sauer moved: After "other division" to insert "of the Supreme Court or by any inferior Court within the Union."

After discussion,

This amendment was put and negatived.

On Section One Hundred and Thirteen.

Mr. Merriman moved: After "Provincial" to insert "or local."

Agreed to.

On Section One Hundred and Fourteen.

Gen. Smuts moved: To omit "in the opinion of the Chief Justice of South Africa."

Agreed to.

On Section One Hundred and Eighteen,

Mr. Sauer moved: After "that inquiry" to omit "and" and substitute "or."

After discussion,

With leave of the Convention, this amendment was withdrawn.

On Section One Hundred and Twenty-nine,

Mr. Sauer moved: To omit all the words from "The Governor-General-in-Council" to the end and insert "The Governor-General-in-Council shall give effect to the provisions of this section as soon as and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of four years from the establishment of the Union. During such period if the revenues accruing to the Consolidated Revenue Fund are insufficient to provide for the general service of the Union and if the earnings accruing to the Railway and Harbour Fund are in excess of the outlays specified herein, Parliament may by law appropriate such excess or any part thereof towards the general expenditure of the Union, and all sums so appropriated shall be paid over to the Consolidated Revenue Fund."

Agreed to.

On Section One Hundred and Twenty-eight,

Mr. Watt moved: After the word "not" to omit "more" and substitute "less."

Mr. Jagger moved: To omit "not more than."

After discussion,

These amendments were put and negatived.

On Section One Hundred and Twenty-nine,

Col. Greene moved: After "development" to omit "within the Union" and after "population" to omit "in the inland portions of" and substitute "throughout."

Dr. Jameson moved: After "inland" to insert "as well as in the other."

Gen. Smuts moved: After "portions of" to insert "all Provinces of."

After discussion,

The last amendment was put and agreed to.

With leave of the Convention, the other amendments were withdrawn.

On Section One Hundred and Thirty,

Gen. Smuts moved: To insert at the beginning "Notwithstanding anything to the contrary in the last preceding section."

Agreed to.

On Section One Hundred and Thirty-five,

Mr. Hyslop moved: To omit all the words from "At any time" to the end.

This amendment put and negatived.

On Section Forty-two,

Gen. Smuts moved: In sub-section (i) (a) to omit "and the number of members assigned to": and in sub-section (iii) to omit "and the number of members assigned to each division."

Agreed to.

On Section One Hundred and Thirty-six,

Mr. Merriman moved: To omit "of members of the House of Assembly, the Provincial Councils, and."

After discussion,

*This amendment was put and agreed to.

Mr. Hyslop moved: To omit "and the Executive Committees of the Provincial Councils."

This amendment was put, and the Convention divided:

"AYES"—5.	Farrar, Sir G. H.
	Fischer, Mr.
Greene, Col.	Fitzpatrick, Sir J. P.
Hyslop, Mr.	Hertzog, Gen.
Moor, Mr.	Hull, Mr.
Smythe, Mr.	Jagger, Mr.
Watt, Mr.	Jameson, Dr.
	Lindsay, Mr.
	Maasdorp, Mr.
"NOES"—25.	Malan, Mr.
	Merriman, Mr.
Beck, Dr.	Sauer, Mr.
Botha, Gen.	Smartt, Dr.
Browne, Mr.	Smuts, Gen.
Burger, Gen.	Stanford, Col.
De la Rey, Gen.	Steyn, Mr.
De Villiers, Sir J. H.	Van Heerden, Mr.
De Wet, Gen.	Walton, Mr.

The amendment accordingly negatived.

On Section One Hundred and Thirty-nine.

Gen. Smuts moved: To omit "of European descent."

After discussion,

This amendment was put and agreed to.

Gen. Smuts then moved: To omit Section One Hundred and Forty.

After discussion,

With leave of the Convention, this motion was withdrawn.

The President moved: To add at the end of Section One Hundred and Forty: "provided that in the Province of the Cape of Good Hope the Solicitor-General for the Eastern Districts and the Crown Prosecutor for Griqualand West shall respectively continue to exercise the powers and duties by law vested in them at the time of the establishment of the Union."

Gen. Smuts moved: To omit "and styled the Attorney-General of the Province."

* The words "of members of" here omitted were subsequently restored see page 272. G.R.H.

Mr. Moor moved: That the Convention do now adjourn, which was put and negatived.

The amendment proposed by Gen. Smuts was then put and negatived.

Gen. Smuts moved: After "who shall" to insert "under the control of such Minister."

This amendment put and negatived.

The amendment proposed by the President put and agreed to.

On the motion of Mr. Smythe, the consideration of the amendments was adjourned.

8. On the motion of Mr. Sauer, the Convention adjourned at a quarter-past six o'clock p.m. until Monday at ten o'clock a.m.

BLOEMFONTEIN, *Monday*, 10th *May*, *1909*.

Ten o'clock a.m.

1. All the members were present except Sir William Milton, Sir Lewis Michell and Mr. Coghlan.

2. On the motion of Mr. Sauer, business was suspended until half-past eleven o'clock a.m.

Half-past eleven o'clock a.m.

Business resumed.

3. Minutes of previous meeting confirmed.

4. On the motion of Mr. Fischer, the Convention then suspended business until half-past twelve o'clock p.m., in order to enable the Finance Committee to come to a decision upon the matters referred to them.

Half-past twelve o'clock p.m.

Business resumed.

5. *Mr. Sauer*, as Chairman, brought up the Second Report of the Finance Committee, re-appointed by resolution of the Convention dated the 3rd May, 1909 [page 251], as follows:—

Your Committee, having considered the matters referred to them, beg to recommend as follows:—

That the following new section be added to follow Section One Hundred and Thirty-seven:

There shall be Free Trade throughout the Union, but until Parliament otherwise provides the duties of customs and of excise leviable under the laws existing in any of the Colonies at the establishment of the Union shall remain in force.

Your Committee are of opinion that the subject matter of new section 149a should not be incorporated in the Draft Constitution Act, and they understand that the question will form the subject of inter-Colonial communication between the Prime Ministers of the four self-governing Colonies.

Mr. Sauer moved: That the report and the proposed new section be adopted.

After discussion, this motion was put and agreed to.

6. Consideration of amendments to Draft South Africa Act resumed.

The President stated that when these amendments were under consideration on Saturday, an amendment had been agreed to on Section One Hundred and Forty [pages 267-268].

On Section One Hundred and Forty-five,

Gen. Smuts moved: After "time at" to insert "which he would have been entitled by law to retire."

Agreed to.

Mr. Moor moved: That the following be a new section to follow Section One Hundred and Forty-eight:

148a. No law providing for the prohibition of the sale and use of intoxicating liquor to natives in any of the Provinces of the Union shall be altered or repealed excepting by a majority of two-thirds of both Houses of Parliament sitting together.

This amendment put and negatived.

On Section One Hundred and Forty-nine,

Col. Greene moved: After "Colonies" to insert "including the Inter-Colonial agreement dated the 2nd February, 1909."

Discussion ensued.

On the motion of Mr. Sauer, business was suspended at twenty-five minutes past one until half-past two o'clock p.m.

Half-past two o'clock p.m.

Business resumed.

Mr. Hull moved: That with reference to the Inter-Colonial Railway Agreement, made on the 2nd February, 1909, apportioning certain share of the commercial seaborne traffic to the competitive area in the Transvaal between the Cape and Natal ports, which agreement cannot appropriately form part of the Constitution Act, the Convention desires to place on record that the apportionment of traffic provided by the said agreement formed one of the inducements to Union, and that effect should be given thereto.

With leave of the Convention, the amendment proposed by Colonel Greene was withdrawn.

Col. Greene then moved: To divide section One Hundred and Forty-nine into two sub-sections, the first being the section as now printed, and to add a new sub-section (ii.), viz.:

(ii) The provisions of the Railway Agreement between the Governments of the Transvaal, the Cape of Good Hope and Natal, dated the 2nd February, 1909, shall as far as practicable be given effect to by the Government of the Union.

Discussion ensued.

Col. Greene laid on the Table a copy of the agreement, dated the 2nd February, 1909, which was read, as follows:—

I. Whereas the Transvaal Government contemplate entering into an agreement with the Government of the Province of Mozambique, which is to take the place of the *modus vivendi*, and under which it is proposed that the proportion of the gross tonnage of commercial seaborne goods divided in certain classes passing through the Port of Lourenco Marques

to the competitive area shall be limited to a minimum of 50 per cent. and to a maximum of 55 per cent. of the total gross tonnage by all routes to such area.

II. The Transvaal Government agrees with the Cape and Natal Governments respectively that with respect to the gross tonnage of such traffic which shall remain after satisfying the provisions of the proposed agreement with the Portuguese Government the same shall be divided between the Cape and Natal ports in the following manner:—

(*a*) Natal ports shall have 30 per cent. of the total gross tonnage by all routes to such area, and the Cape ports shall have the balance of such traffic. If the proportion of such traffic via Natal ports shall rise above 30 per cent. the Cape Government shall have the right to claim a readjustment of railway rates from Cape and Natal ports in order to bring down the Natal proportion of traffic to 30 per cent., the intention being that the 5 per cent. margin of fluctuation provided in the Portuguese agreement shall accrue to the Cape ports, if the traffic via Lourenco Marques shall permit it.

(*b*) On the other hand, should the proportion of such traffic via Cape ports rise above 20 per cent., or the proportion of traffic via Natal ports shall fall below 30 per cent., then the Natal Government shall have the right to claim a readjustment of the railway rates from Cape and Natal ports in order to restore to Natal its 30 per cent. of traffic.

(*c*) Such readjustments shall take place every six months at the end of June and December.

III. The competitive area shall mean the area between the stations Pretoria, Springs, Krugersdorp, Vereeniging (inclusive), and commercial seaborne goods traffic shall exclude traffic for Civil, Military and Railway Administrations.

IV. This arrangement shall only come into operation in the event of the Transvaal, the Cape and Natal entering into Union, and shall continue during the operation of the proposed agreement with the Portuguese Government.

Signed at Cape Town, this Second day of February, 1909.

Witness:

(1) R. H. Brand. (sd.) H. C. Hull,
Chairman, Railway Board.
C.S.A.R.

(2) T. Hyslop. (sd.) E. M. Greene,
Minister Railways and
Harbours, Natal.

(3) T. W. Smartt. (sd.) J. W. Sauer,
Commissioner P. Works
Cape Colony.

With leave of the Convention, the motion proposed by Mr. Hull [page 269] was withdrawn.

The amendment proposed by Col. Greene [page 269] was put and agreed to.

The Convention reverted to Section Thirty-two standing over [page 255].

Gen. Smuts moved: That the words at the end of the section omitted on the 3rd instant be restored.

Agreed to.

On Section Thirty-seven,

Dr. Beck moved: To add:—

"Provided that the Government of the Union shall bear all expenses sanctioned and allowed by the Governor-General-in-Council in connection with the election of members of the House of Assembly; and provided further that in case the number of persons nominated as members of the House of Assembly for any division exceeds the number of persons to be elected, the returning officer shall require payment of, or take security for, the sum of fifty pounds sterling from or on behalf of every person nominated, and such sums shall be forfeited to the Treasury of the Union by any and every candidate who at the election shall receive a less number of votes than one-fifth of the number of votes sufficient to secure the return of a candidate at such election; and after every election the said returning officers shall return to each of the candidates who shall have received a number of votes equal at least to such fifth part, whether declared elected or not, the money or security so paid or given by him."

After discussion,

This amendment was put and negatived.

On Section Sixty-four,

Gen. Smuts moved: To omit "His Majesty, his heirs or successors," and substitute "the King."

Agreed to.

On Section Thirty-seven,

Mr. Malan moved: To omit "at" before "elections," and substitute "in connection with."

Agreed to.

On Section Sixty-four,

Gen. Smuts moved: After the words "House of Assembly," which were inserted on the 7th instant, to insert "and all Bills abolishing Provincial Councils, or abridging the powers conferred on Provincial Councils under section Eighty-five otherwise than in accordance with the provisions of that section."

Agreed to.

On the Schedule,

Mr. Smythe moved: In sub-section (18) to omit "black and white."

Agreed to.

On Section Twenty-five,

Sir Percy Fitzpatrick moved: In sub-section (c) to omit "£500" and substitute "£250."

After discussion,

With leave of the Convention, this amendment was withdrawn.

On Section Eighty-five,

Sir George Farrar moved: To omit sub-section (iii), and substitute:

(iii) Education, other than higher education, for such period, not exceeding five years, as the Provincial Council may resolve, and thereafter until Parliament otherwise provides.

After discussion,

With leave of the Convention, this amendment was withdrawn.

On Section One Hundred and Three, as amended,

The President moved: To omit "by its special leave" at the end, and substitute "and then only if the Appellate Division shall have given special leave to appeal."

Agreed to.

On Section One Hundred and Five,

The President moved: After "Division" to omit "of the Supreme Court of South Africa."

Agreed to.

Mr. Watt moved: In Section One Hundred and Three, as amended, and in Sections One Hundred and Four, One Hundred and Seven, One Hundred and Nine, and One Hundred and Fourteen to omit the same words.

Agreed to.

On Section One Hundred and Thirty-six,

Gen. Smuts moved: To restore the words "of members of," which were omitted on the 8th instant [page 267].

Agreed to.

7. *Mr. Fischer* moved: That the Second Report of the Convention and the amendments to the draft Act be issued to the public through the medium of the press without delay, after signature of the report by the delegates.

Agreed to.

8. *The President* moved: That the delegates to be appointed by the South African Governments to proceed to London to confer with the Secretary of State for the Colonies in reference to the passage of the South Africa Act through the British Parliament be authorized, *inter alia*:—

(i) To agree to any necessary amendments* in the Act which do not involve alterations of any of its principles.

(ii) To confer with the Secretary of State for the Colonies as to the Royal Instructions to be issued to the Governor-General.

(iii) To draft for the guidance of the South African Governments rules and regulations for the first elections of senators, in accordance with the provisions of the Act.

After discussion,

The motion was put and agreed to.

9. On the motion of Mr. Malan, the Convention adjourned at half-past six p.m. until to-morrow at half-past ten o'clock a.m.

* These amendments are printed as Appendix K, pages 360-364. G.R.H.

BLOEMFONTEIN, *Tuesday*, 11TH *May, 1909.*

Half-past ten o'clock a.m.

1. All the members were present, except Sir William Milton, Sir Lewis Michell and Mr. Coghlan.

2. *Mr. Fischer* moved: That it be left to the President to make such dispositions as he may deem best for the safe preservation of the records of the Convention, it being understood that all such records shall be kept under seal, to be opened only with the consent of the President.

Agreed to.

3. *Mr. Steyn* moved: That the copies of the Proceedings in the possession of members be handed over to the Secretaries of the respective Colonies, to be by them destroyed.

After discussion,

This motion was put and negatived.

4. *Mr. Merriman*, as Chairman, brought up the Third Report of the Finance Committee, reappointed by resolution of the Convention, dated the 3rd May, 1909 [page 251], as follows:

Your Committee, having considered the questions of oversea freights and the Ocean Mail Contract, are of opinion that in reference to the threatened increase of the export rate for maize the Agents-General should be instructed to suspend all negotiations on the Mail Contract until the Constitutional Deputation reaches London, and that the Conference lines be informed that if the maize rate is raised in the meantime such action will be considered as unfriendly by all the South African Governments.

On the motion of Mr. Merriman, the report was adopted.

5. *Gen. Smuts* moved: That the question of the exercise of further expenditure on Capital Account and on borrowing powers by the several Colonies be left to the Prime Ministers.

After discussion,

With leave of the Convention, this motion was withdrawn.

6. *Mr. Merriman* moved: That this Convention at its final sitting desires to place on record its sense of the unfailing tact and courtesy of Sir Henry de Villiers, the President of the Convention, and to tender him their sincere and heartfelt thanks for the services rendered by him to the cause of Union.

Agreed to.

The President said that he greatly appreciated the vote which had just been passed, and that the distinction of having been elected the President of this Convention was the greatest honour and the highest pleasure that he had experienced, now to be consummated by the signing of the draft Act of Union. He must add that any success he may have achieved in presiding over the Convention was due to the cordial support he had received from every one of the delegates.

7. *Gen. Smuts* moved: That the Convention places on record its cordial thanks to Messrs. Kilpin, Hofmeyr, De Villiers, Plowman and Bok and the secretarial staff for the thorough and able manner in which the secretarial work of the

Convention and of the Committees of the Convention has been carried out, and its sense of their loyal devotion in carrying out their arduous duties.

Agreed to.

8. *Gen. Smuts* moved: That this Convention places on record its high appreciation of the services rendered by Messrs. Duncan, De Wet, Long, Brand and W. J. van Zyl, also Messrs. Lucas, H. S. van Zyl and Luckhoff, in their capacity as advisers to the Convention and the different delegations attending the Convention. The Convention has derived much benefit from their capable and efficient advice, and its labours have been considerably curtailed by their assistance.

Agreed to.

9. *Mr. Moor* moved: That the Convention also records its thanks to Messrs. Hershensohnn, Murray and Luckhoff for their valuable services as translators to the Convention.

Agreed to.

10. *Gen. Smuts* moved: That the Convention express its appreciation of the valuable communications and advice of Mr. Humphreys, Secretary to the English Proportional Representation Society, in connection with the system of proportional representation with the single transferable vote, and that the thanks of the Convention be conveyed to him.

Agreed to.

11. *Dr. Jameson* moved: This Convention desires to acknowledge the hospitality extended to it by the Government of the Orange River Colony, and to express its appreciation of the admirable arrangements which have been made for the work of the session in Bloemfontein.

Agreed to.

12. The Second Report [printed as Appendix H, pages 349-354] and the draft Act as finally adopted was then submitted for signature, and upon the adoption thereof the Convention adjourned *sine die* at a quarter-past twelve o'clock p.m.

APPENDICES.

APPENDICES.

[A]

RESOLUTIONS ADOPTED ON THE 5th MAY, 1908, BY THE INTER-COLONIAL CONFERENCE HELD AT PRETORIA ON THE SUBJECT OF UNION.

(a) That in the opinion of this Conference the best interests and the permanent prosperity of South Africa can only be secured by an early Union, under the Crown of Great Britain, of the several self-governing Colonies;

(b) That to the union contemplated in the foregoing resolution Rhodesia shall be entitled to admission at such time and on such conditions as may hereafter be agreed upon;

(c) That the members of this Conference agree to submit the foregoing resolutions to the Legislatures of their respective Colonies, and to take such steps as may be necessary to obtain their consent to the appointment of delegates to a National South African Convention, whose object shall be to consider and report on the most desirable form of South African Union, and to prepare a draft Constitution.

(d) The Convention shall consist of not more than twelve (12) delegates from the Cape Colony, not more than eight (8) delegates from the Transvaal, not more than five (5) delegates from Natal and the Orange River Colony, respectively, and it shall meet as soon as convenient after the next sessions of all the Parliaments: provided that as soon as at least two Colonies shall have appointed their delegates the Convention shall be considered as constituted;

(e) The Convention shall publish the Draft Constitution as soon as possible, and shall, in consultation with the Governments of the self-governing Colonies, determine the further steps to be taken in reference thereto;

(f) In the Convention the voting shall be *per capita*, and not by States. A Chairman shall be elected from the members who shall have the right of speaking and voting, and in the event of an equality of votes, shall have a casting vote.

[B]

CONFIRMATORY RESOLUTIONS ADOPTED BY THE VARIOUS PARLIAMENTS.

Cape of Good Hope.

That this House concurs in the resolutions with regard to closer union passed at the Inter-Colonial Conference on the 5th May, 1908, viz.:—

(*Pretoria resolutions repeated verbatim.*)

(Legislative Council, 29th June, 1908, Minutes, p. 39.)

(House of Assembly, 22nd June, 1908, V. and P. p. 33.)

Natal.

(1) That in the opinion of this House, the best interests and the permanent prosperity of South Africa can only be secured by an early union, under the Crown of Great Britain, of the several self-governing Colonies.

(2) That, to the Union contemplated in the foregoing resolution, Rhodesia shall be entitled to admission at such time and under such conditions as may hereafter be agreed upon.

(3) That delegates be appointed to a National South African Convention, whose object shall be to consider and report on the most desirable form of South African Union, and to prepare a draft constitution.

(4) The Convention shall consist of not more than twelve delegates from the Cape Colony, not more than eight delegates from the Transvaal, not more than five delegates from Natal and the Orange River Colony respectively, and it shall meet as soon as convenient after the present sessions of all the Parliaments; provided that as soon as at least two Colonies shall have appointed their delegates the Convention shall be considered as constituted.

(5) The Convention shall publish the draft Constitution as soon as possible, and shall, in consultation with the Governments of the self-governing Colonies, determine the further steps to be taken in reference thereto.

(6) In the Convention the voting shall be *per capita* and not by States. A Chairman shall be elected from the members who shall have the right of speaking and voting, and in the event of an equality of votes, shall have a casting vote.

(Legislative Council, 6th July, 1908, Minutes, pp. 46 and 47.)

(Legislative Assembly, 1st July, 1908, V. and P. pp. 95-96.)

Transvaal.

This House resolves that:—

(a) In its opinion the best interests and the permanent prosperity of South Africa can only be secured by an early Union, under the Crown of Great Britain of the several self-governing Colonies.

(b) To the Union contemplated in the foregoing resolution Rhodesia shall be entitled to admission at such time and on such conditions as may hereafter be agreed upon.

(c) Delegates be appointed to a National South African Convention whose object shall be to consider and report on the most desirable form of South African union, and to prepare a draft Constitution.

(d) The Convention shall consist of not more than (12) twelve delegates from the Cape Colony, not more than (8) eight delegates from the Transvaal, not more than (5) five delegates from Natal and the Orange River Colony, respectively, and it shall meet as soon as convenient after the present Sessions of all the Parliaments, provided that as soon as at least two Colonies shall have appointed their delegates the Convention shall be considered as constituted.

(e) The Convention shall publish the draft Constitution as soon as possible, and shall, in consultation with the Governments of the self-governing Colonies, determine the further steps to be taken in reference thereto.

(f) In the Convention the voting shall be *per capita* and not by States. A Chairman shall be elected from the members who shall have the right of speaking and voting, and in the event of an equality of votes shall have a casting vote.

(Legislative Council, 30th June, 1908,
Minutes, p. 8.)

(Legislative Assembly, 23rd June, 1908,
V. and P. p. 33.)

Orange River Colony.

That this House expresses its concurrence with the resolutions on Closer Union and the Constitution of a National South African Convention adopted by the recent Inter-Colonial Conference, and consents to the appointment of five delegates for the Orange River Colony, to a National South African Convention, whose object shall be to consider and report on the most desirable form of South African Union, and to prepare a draft constitution in terms of the said resolutions, such convention to meet as soon as convenient after the present sessions of the Parliaments of the various colonies concerned.

(House of Assembly, 24th June, 1908,
V. and P., p. 84.)

[C]

APPOINTMENT OF DELEGATES TO THE CONVENTION.

Cape of Good Hope.

Resolution of both Houses:

That the following be the delegates of this Colony to the National Convention on the Union of South Africa, viz.:—

The Right Hon. Sir J. H. de Villiers, The Right Hon. Dr. L. S. Jameson, The Hon. Dr. Smartt, The Hon. E. H. Walton, The Hon. W. P. Schreiner, Mr. J. W. Jagger, Mr. H. C. van Heerden, Mr. G. H. Maasdorp, Dr. J. H. M. Beck, The Hon. F. S. Malan, The Hon. J. W. Sauer, and the Hon. the Prime Minister.

(Legislative Council, 29th June, 1908, Minutes, p. 39.)

(House of Assembly, 24th June, 1908, V. and P., p. 48.)

Resignation of Hon. W. P. Schreiner.

(House of Assembly, 7th September, 1908, V. and P., p 628.)

Appointment of Col. Stanford in his stead.

(House of Assembly, 7th September, 1908, V. and P., p 628.)

Natal.

Resolution of both Houses:

That the following be appointed delegates for Natal to the National Convention on Closer Union, viz.: *Mr. Morcom, Mr. Hyslop, Col. Greene, The Hon. Mr. Smythe and the Prime Minister, and that in the event of a vacancy from any cause whatever among these delegates the vacancy be filled by the Hon. Mr. Watt.

(Legislative Council, 28th July, 1908, Minutes, p. 93.)

Legislative Assembly, 28th July, 1908, V. and P., pp. 243-244.)

Transvaal.

Resolution of Legislative Assembly:

This House resolves:

(1) That the following gentlemen be appointed as the Transvaal delegates to the National Convention on Closer Union, viz.: Gen. S. W. Burger, Gen. J. H. de la Rey, Sir Percy Fitzpatrick, Sir George Farrar, Hon. H. C. Hull

* Mr. Morcom resigned during the interval in the Cape Town session, December 1908, to January, 1909, and was thereupon rep'aced by Mr. Watt.—G.R.H.

(Colonial Treasurer), Mr. H. L. Lindsay, Gen. the Hon. J. C. Smuts (Colonial Secretary), Gen. the Right Hon. L. Botha (Prime Minister).

(2) That in the event of a vacancy arising from any cause whatever among these delegates the Government be authorised to fill such vacancy.

(Legislative Assembly, 6th July, 1908, V. and P., p. 96.)

Orange River Colony.

That this House do now proceed to appoint five delegates to the Convention on Closer Union, in terms of the resolution unanimously adopted on the 24th instant, and, accordingly, appoint the Hon. M. T. Steyn, Sir John Fraser, Gen. C. R. de Wet, Gen. J. B. M. Hertzog, and the Prime Minister as such delegates, and further resolves that in the event of any vacancy or vacancies occurring in the delegation the Government be authorised to fill the same.

(House of Assembly, 3rd July, 1908, V. and P., p. 133.)

Resignation of Sir John Fraser,
(House of Assembly, 19th August, 1908, V. and P., p. 390.)

Appointment of the Hon. A. Browne in his stead.
(House of Assembly, 19th August, 1908, V. and P., p. 390.)

[D]

APPOINTMENT OF REPRESENTATIVES FOR SOUTHERN RHODESIA.

Minute.

The Administrator of Southern Rhodesia, with the advice of the Executive Council, has approved of the appointment of the following as representatives of the territory of Southern Rhodesia at the Closer Union Convention to be held at Durban on the 12th October, 1908.

Sir William Henry Milton, K.C.M.G.
Hon. Sir Lewis Loyd Michell, Kt.
Charles Patrick Coghlan, Esq., M.L.C.

W. H. MILTON,
Administrator.

A. H. HOLLAND,
Acting Clerk of Councils.

Salisbury,
2nd October, 1908.

[E]

DRAFT ACT AS BROUGHT UP BY THE DRAFTING COMMITTEE.

Whereas, it is desirable for the welfare and future progress of South Africa that the several British Colonies therein should be united under one Government in a legislative Union under the Crown of Great Britain and Ireland.

And whereas it is expedient to make provision for the Union of those Colonies which may voluntarily assent thereto and to define the executive, legislative and judicial powers to be exercised in the Government of the Union.

And whereas it is expedient to make provision for the establishment of Provinces with powers of legislation and administration in local matters and in such other matters as may be specially reserved for provincial legislation and administration.

And whereas it is expedient to provide for the eventual admission into the Union as Provinces or Territories of such parts of South Africa as are not originally included in such Union.

Be it therefore enacted, etc.

I. Preliminary.

1. This Act may be cited as the South Africa Act 19.....

2. In this Act the words "the Union" shall, unless it is otherwise expressed or implied, be taken to mean South Africa as constituted under this Act.

3. The provisions of this Act referring to the King shall extend to His Majesty's heirs and successors in the Sovereignty of the United Kingdom, of Great Britain and Ireland.

II. The Union.

4. It shall be lawful for the King, with the advice of the Privy Council to declare by Proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, any two or more of the Colonies of the Cape of Good Hope, Natal, the Transvaal and the Orange River Colony, hereinafter called the Colonies, which shall, before the passing of this Act, or thereafter before the date of such Proclamation, have agreed thereto either by Act or by resolutions of their respective Houses of Parliament shall be united in a legislative union under one Government under the name of South Africa. On and after the day appointed by such Proclamation the Government and Parliament of the Union shall have full power and effect within the limits of the Colonies which shall have so agreed, but the King may at any time after the Proclamation appoint a Governor-General for the Union.

5. The subsequent provisions of this Act shall, unless it is otherwise expressed or implied, take effect on and after the day so appointed.

6. Such of the Colonies as shall have agreed to enter the Union before the date of the Proclamation mentioned in Section *four* shall become original provinces of the Union under the names of Cape of Good Hope, Natal, Transvaal and Orange, as the case may be. The original provinces shall have the same limits as the respective Colonies at the establishment of the Union. If any of the Colonies do not become original provinces, all provisions in respect of them contained in this Act shall be inoperative, and it shall not be competent for them to enter the Union except in the manner hereinafter provided for the admission into the Union of new Provinces.

III. Executive Government.

7. The Executive Government of South Africa is vested in the King, and shall be administered by the Sovereign in person, or by a Governor-General as his representative.

8. The Governor-General shall be appointed by the King, and shall have and may exercise in the Union during the King's pleasure, but subject to this Act, such powers and functions of the King as His Majesty may be pleased to assign to him.

9. There shall be payable to the King out of the Consolidated Revenue Fund of the Union for the salary of the Governor-General an annual sum, which shall be.....

The salary of the Governor-General shall not be altered during his continuance in office.

10. The provisions of this Act relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as the King may appoint to administer the Government of the Union, but no such person shall be entitled to receive any salary from the Union in respect of any other office during his administration of the Government of the Union.

11. There shall be an Executive Council to advise the Sovereign or his representative in the Government of the Union, and the members of the Council shall be chosen and sūmmoned by the Governor-General, and sworn as Executive Councillors and shall hold office during his pleasure.

12. The provisions of this Act referring to the Governor-General-in-Council shall be construed as referring to the Governor-General acting with the advice of the Executive Council.

13. The Governor-General may appoint officers not exceeding ten in number to administer such departments of State of the Union as the Governor-General-in-Council may establish; such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Executive Council, and shall be the King's Ministers of State for the Union.

After the first general election of members of the House of Assembly as hereinafter provided, no Minister shall hold

office for a longer period than three months unless he is or becomes a member of either House of Parliament.

14. The appointment and removal of all officers of the public service of the Union shall be vested in the Governor-General-in-Council, unless the appointment is delegated by the Governor-General-in-Council or by this Act or by a law of Parliament to some other authority.

15. All powers, authorities and functions, which at the establishment of the Union are in any of the Colonies vested in the Governor or in the Governor-in-Council shall as far as the same continue in existence and are capable of being exercised after the establishment of the Union be vested in the Governor-General or in the Governor-General-in-Council, as the case may be, except such powers and functions as are by this Act or may by a law of Parliament be delegated to some other authority.

16. The Command-in-Chief of the Naval and Military forces within the Union is vested in the King or in the Governor-General as his representative.

IV. Parliament.

17. The legislative power of the Union shall be vested in a Parliament to be styled the Parliament of South Africa, which shall consist of the King, a Senate and a Legislative Assembly.

18. The Governor-General may appoint such time for holding the sessions of Parliament as he thinks fit, and may also from time to time, by proclamation or otherwise, prorogue Parliament, and may in like manner dissolve the Senate and the Legislative Assembly simultaneously or the Legislative Assembly alone. Provided that the Senate shall not be dissolved within a period of ten years after the establishment of the Union, and provided further that the dissolution of the Senate shall not affect any Senators nominated by the Governor-General-in-Council.

19. Parliament shall be summoned to meet not later than six months after the establishment of the Union.

20. There shall be a session of Parliament once at least in every year, so that a period of twelve months shall not intervene between the last sitting of Parliament in one session, and its first sitting in the next session.

The Senate.

21. For ten years after the establishment of the Union and thereafter until Parliament otherwise provides the constitution of the Senate shall in respect of the original provinces be as follows:—

(a) Eight senators shall be nominated by the Governor-General-in-Council, and for each original province eight senators shall be elected in the manner hereinafter provided.

(b) The senators to be nominated by the Governor-General-in-Council shall hold their seats for ten years. One-half of their number shall be selected on the ground mainly of their

thorough acquaintance by reason of their official experience or otherwise with the reasonable wants and wishes of the coloured races in South Africa.

If the seat of a senator so nominated becomes vacant the Governor-General-in-Council shall select in the same manner a person to hold the seat until the completion of the period for which the person in whose stead he is nominated would have held the same.

(c) The election of senators for each province shall take place in the following manner:—After the passing of this Act, and before the day appointed for the establishment of the Union, the two Houses of the Legislature of each Colony sitting together as one body and presided over by the Speaker of the Legislative Assembly shall, according to the principle of proportional representation with the single transferable vote, under regulations in that behalf to be framed by the Governor-General of such Colony, elect eight persons to be senators for the province. Such senators shall hold their seats for ten years. If the seat of a senator so elected shall become vacant the Provincial Council of the Province for which such senator has been elected shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat.

22. Parliament may provide for the manner in which the Senate shall be constituted after the expiration of ten years, and unless and until such provision shall have been made the senators for each province shall be elected by the Provincial Council of such Province according to the principle of proportional representation with the single transferable vote, and they shall hold their seats for a period of ten years. In case of a vacancy occurring before the expiration of such period the Provincial Council shall in like manner elect a person to fill the vacancy.

23. The qualifications of a senator shall be as follows:—

He must:—

(a) be thirty years of age;

(b) be qualified to be registered as a voter in one of the provinces;

(c) have resided for five years within the limits of the Union as existing at the time when he is elected or nominated as the case may be.

(d) be a British subject of European descent;

(e) in the case of an elected senator be the registered owner of immovable property within the Union of the value of not less than £1,000 over and above any conventional, or special mortgages thereon.

24. The Senate shall before proceeding to the dispatch of any other business, choose a senator to be the President of the Senate and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President. The President shall cease to hold office if he ceases to be a

Senator. He may be removed from office by a vote of the Senate, or he may resign his office by writing addressed to the Governor-General.

25. Before or during any absence of the President the Senate may choose a senator to perform his duties in his absence.

26. A senator may by writing under his hand, addressed to the Governor-General, resign his seat, which thereupon shall become vacant. The Governor-General shall thereupon cause steps to be taken to have the vacancy filled.

27. The presence of at least twelve senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

28. All questions in the Senate shall be determined by a majority of votes of Senators present other than the President or the presiding Senator, who shall, however, have and exercise a casting vote in the case of an equality of votes.

Legislative Assembly.

29. The Legislative Assembly shall be composed of members directly chosen by the voters of the Union in electoral divisions delimited as hereinafter provided.

30. The number of members to be elected in the original provinces at the first election and until the number is altered in accordance with the provisions of this Act shall be as follows:—

Cape of Good Hope	51
Natal	17
Transvaal	36
Orange	17.

These numbers may be increased as provided in the next succeeding section, but shall not in the case of any original province be diminished until the total number of members of the Legislative Assembly in respect of the provinces herein provided for reaches 150.

31. The number of members to be elected in each province as provided in section thirty shall be increased from time to time as may be necessary in accordance with the following provisions:—

(i) The quota of the Union shall be obtained by dividing the total number of European male adults in the Union, not being members of His Majesty's Regular Forces on full pay as ascertained at the Census of 1904, by the total number of members of the Legislative Assembly as constituted at the establishment of the Union.

(ii) In 1911 and every five years thereafter a Census of the European population of the Union shall be taken for the purposes of this Act.

(iii) After every such Census the number of European male adults in each province shall be compared with the number of European male adults as ascertained at the Census of 1904,

and in the case of any province where an increase is shown, equal to the quota of the Union or any multiple thereof, an additional member shall be allotted to such province or an additional number of members equal to such multiple as the case may be.

(iv) Notwithstanding anything herein contained, no additional member shall be allotted to any province until the total number of European male adults in such province exceeds the quota of the Union multiplied by the number of members allotted to such province for the time being, and thereupon additional members shall be allotted to such province in respect only of such excess.

(v) As soon as the number of members of the Legislative Assembly to be elected in the original provinces in accordance with the preceding sub-sections reaches the total of 150, such total shall not be further increased unless and until Parliament otherwise provides; and notwithstanding anything in this and the last preceding sections the distribution of members among the provinces shall be such that the proportion between the number of members to be elected at any time in each province and the number of European male adults in such province as ascertained at the last preceding Census shall as far as possible be identical throughout the Union.

32. If any of the Colonies does not become an original province the number of members to which the Legislative Assembly may be increased shall be reduced by the number of members assigned to the corresponding province in section thirty.

33. Parliament may, by law, prescribe the qualifications which shall be necessary to entitle persons to vote at the election of members of the Legislative Assembly, but no such law shall disqualify any person in the province of the Cape of Good Hope who, under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union, is or may become capable of being registered as a voter from being so registered by reason of his race or colour only, unless the bill be passed by both Houses of Parliament sitting together and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses.

34. Subject to the provisions of the last preceding section the qualifications of Parliamentary voters as existing in the several Colonies at the establishment of the Union shall be the qualifications necessary to entitle persons in the corresponding provinces to vote for the election of members of the Legislative Assembly. Provided that no member of His Majesty's Regular Forces on full pay shall be entitled to be registered as a voter.

35. No person who prior to the passing of any such law shall be registered as a voter in any province shall be removed from the register by reason only of any disqualification based on race or colour.

36. (i) Subject to the provisions of this Act, the laws in force in the Colonies at the establishment of the Union relat

ing to elections for the more numerous Houses of Parliament in such Colonies respectively, the registration of voters, the oaths or declarations to be taken by voters, returning officers, their powers and duties, the proceedings at elections, the hearing of election petitions and the proceedings incident thereto, the vacating of seats of members and the proceedings necessary for filling such vacancies shall *mutatis mutandis* apply to the elections in the respective provinces of members of the Legislative Assembly.

(ii) Notwithstanding anything to the contrary in any of the said laws contained, at any general election of members of the Legislative Assembly the date of the nomination of persons proposed as members thereof shall be the same in all electoral divisions of the Union, and all polls shall be taken on the same day in all such divisions throughout the Union.

37. The election of members of the Legislative Assembly shall be according to the principle of proportional representation with the single transferable vote.

38. The Governor-General-in-Council shall frame regulations prescribing the method of voting and of transferring and counting votes, and the duties of returning officers in connection therewith, in all cases in which elections taking place after the establishment of the Union are by this Act directed to be according to the principle of proportional representation with the single transferable vote, and such regulations after being duly promulgated shall have full force and effect unless and until Parliament shall otherwise provide.

39. Between the date of the passing of this Act and the date fixed for the establishment of the Union the Governor-in-Council of each Colony shall nominate a Judge of any of the Supreme or High Courts of the several Colonies, and the Judges so nominated shall form a Joint Commission for the purpose of the first division of the provinces into electoral divisions. The Commission shall forthwith proceed with the discharge of its duties, and may appoint persons in any province to assist it or to act as assessors with the Commission or with individual members thereof for the purpose of inquiring into any question arising in such province.

40. The Commission shall divide each Province into electoral divisions, each returning three or more members, provided that in special cases of sparsely populated areas the Commission may delimit divisions in which less than three members shall be returned.

41. (i) For the purpose of such division as is in the last preceding section mentioned the quota of each Province shall be obtained by dividing the total number of voters in the provinces as ascertained at the last registration of voters by the number of members of the Legislative Assembly to be elected therein.

(ii) Each province shall be divided into electoral divisions, so that the number of voters in each division shall, subject to the provisions of sub-section (iii), be a multiple of

the quota, and the number of members to be elected therein shall be equal to such multiple.

(iii) The Commissioners shall give due consideration to

(a) community or diversity of interests;

(b) means of communication;

(c) physical features;

(d) existing electoral boundaries;

(e) sparsity or density of population;

in such manner that, while taking the quota of voters as the basis of division, the Commissioners may, whenever they deem it necessary, depart therefrom, but in no case to any greater extent than 15 per cent. more or 15 per cent. less than the quota.

42. As soon as may be after every quinquennial census the Governor-General-in-Council shall appoint a Commission consisting of three Judges of the Supreme Court of South Africa to carry out any redivision which may have become necessary as between the different electoral divisions in each Province, and to provide for the allocation of any additional members to which such province may have become entitled under the provisions of this Act. In carrying out such re-division and allocation the Commission shall have the same powers and proceed upon the same principles as in the original division.

43. (i) The Joint Commission constituted under section thirty-nine and any subsequent Commission appointed under the provisions of the last preceding section shall submit to the Governor-General-in-Council:—

(a) A list of electoral divisions, with the names given to them by the Commission, and a description of the boundaries of every such division.

(b) A map or maps showing the electoral divisions into which the provinces have been divided.

(c) Such further particulars as they consider necessary.

(ii) The Governor-General-in-Council may refer to the Commission for its consideration any matter relating to such list, or arising out of the powers or duties of the Commission.

(iii) The Governor-General-in-Council shall proclaim the names and boundaries of the electoral divisions as finally settled and certified by the Commission or a majority thereof, and thereafter, until there shall be another redivision, the electoral divisions as named and defined shall be the electoral divisions of the provinces.

(iv) If any discrepancy shall arise between the description of the divisions and the aforesaid map or maps, the description shall prevail.

44. Any alteration in the number of members of the Legislative Assembly to be elected in the several provinces, and any redivision of the provinces into electoral divisions shall come into operation at the next general election held after the completion of the redivision or of any allocation consequent upon such alteration, and not earlier.

45. The qualifications of a member of the Legislative Assembly shall be as follows:—

(i) He must be qualified to be registered as a voter for the election of members of the Legislative Assembly in an electoral division of the Union.

(ii) Have resided for five years within the limits of the Union as existing at the time when he is elected.

(ii) Be a British subject of European descent.

46. Every Legislative Assembly shall continue for five years from the first meeting of the House and no longer, but may be sooner dissolved by the Governor-General.

47. The Legislative Assembly shall, before proceeding to the dispatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a member to be the Speaker.

The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing addressed to the Governor-General.

48. Before or during the absence of the Speaker the Legislative Assembly may choose a member to perform his duties in his absence.

49. A member may by writing or telegram addressed to the Speaker or, if there is no Speaker or if the Speaker is absent from the Union, to the Governor-General resign his seat, which shall thereupon become vacant.

50. The presence of at least thirty members of the Legislative Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers.

51. All questions in the Legisative Assembly shall be determined by a majority of votes of members present other than the Speaker or presiding member, who shall, however, have and exercise a casting vote in case of an equality of votes.

Both Houses of Parliament.

52. Every senator and every member of the Legislative Assembly shall before taking his seat make and subscribe before the Governor-General or some person authorised by him, an oath or affirmation of allegiance in the following form:—

Oath.

I, A.B., do swear that I will be faithful and bear true allegiance to His Majesty King Edward the Seventh, His heirs and successors according to law. So help me God.

Affirmation.

I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to His Majesty King Edward the Seventh, His heirs and successors according to law.

53. A member of either House of Parliament shall be incapable of being chosen or of sitting as a member of the other

House, provided that every Minister of State who is a member of either House of Parliament shall have the right to sit and speak in the Senate and the Legislative Assembly, but shall vote only in the House of which he is a member.

54. No person shall be capable of being chosen or of sitting as a senator or as a member of the Legislative Assembly who:—

(i) is a member of any Provincial Council:

(ii) has been at any time convicted of treason, murder or any infamous crime, and sentenced to imprisonment without the option of a fine, unless he shall have received a free pardon or unless such imprisonment shall have expired at least five years before the date of his election;

(iii) is an unrehabilitated insolvent:

(iv) has been declared a person of unsound mind by a competent Court;

(v) holds any office of profit under the Crown within the Union: Provided that the following persons shall not be deemed to hold an office of profit under the Crown for the purposes of this sub-section:

(a) a Minister of State for the Union:

(b) a person in receipt of a pension from the Crown;

(c) an officer or member of His Majesty's Naval or Military Forces on retired or half pay.

55. If a senator or member of the Legislative Assembly

(i) becomes subject to any of the disabilities mentioned in the last preceding section; or

(ii) ceases to be qualified as required by law; or

(iii) shall fail for a whole ordinary session to attend without the special leave of the Senate or the Legislative Assembly, as the case may be.

his seat shall thereupon become vacant.

56. If any person who is by law to be incapable of sitting as a senator or member of the Legislative Assembly shall while so disqualified, and knowing or having reasonable grounds for knowing that he is so disqualified, sit or vote as a member of the Senate or the Legislative Assembly, such person shall be liable to a penalty of one hundred pounds for each day on which he shall so sit or vote to be recovered on behalf of the Treasury of the Union by action in any Superior Court of the Union.

57. Each senator and each member of the Legislative Assembly shall receive an allowance of three hundred pounds a year under such rules as shall be framed by Parliament, to be reckoned from the date on which he takes his seat: provided that for every day of the session on which he is absent there shall be deducted from such allowance the sum of two pounds; provided further that no such allowance shall be paid to a Minister receiving a salary under the Crown or to the President of the Senate or the Speaker of the Legislative Assembly. A day of the session shall mean in respect of a member any day during a session on which the House of which

he is a member or any committee of which he is a member meets.

58. The powers, privileges and immunities of the Senate and of the Legislative Assembly and of the members of the committees of each House shall, subject to the provisions of this Act, be such as are declared by Parliament, and until declared shall be those of the House of Assembly of the Cape of Good Hope and of its members and committees at the establishment of the Union.

59. Each House of Parliament may make rules and orders with respect to the order and conduct of its business and proceedings. Until such rules and orders shall have been made the rules and orders of the Legislative Council and House of Assembly of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply to the Senate and Legislative Assembly respectively. In the case of a joint sitting of the two Houses the Speaker of the Legislative Assembly shall preside, and the rules of the Legislative Assembly shall as far as practicable apply.

Powers of Parliament.

60. Parliament shall have full power to make laws for the peace, order and good government of South Africa.

61. Bills appropriating revenue or moneys or imposing taxation shall originate only in the Legislative Assembly. But a bill shall not be taken to appropriate revenue or moneys or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties under the bill.

The Senate may not amend any bills, so far as they impose taxation or appropriate revenue or moneys for the services of the Government.

The Senate may not amend any bill so as to increase any proposed charges or burden on the people.

62. Any bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

63. The Legislative Assembly shall not originate or pass any vote, resolution, address or bill for the appropriation of any part of the public revenue or of any tax or impost to any purpose unless such appropriation has been recommended by message from the Governor-General during the session in which such vote, resolution, address or bill is proposed.

64. If the Legislative Assembly passes any bill and the Senate rejects or fails to pass it or passes it with amendments, to which the Legislative Assembly will not agree and upon which the Senate insists, the Governor-General may convene a joint sitting of the members of the Senate and Legislative Assembly.

The members present at any such joint sitting may deliberate and shall vote together upon the bill as last proposed by the Legislative Assembly and upon amendments, if any,

which have been made therein by the one House of Parliament and not agreed to by the other, and any such amendments which are affirmed by a majority of the total number of members of the Senate and Legislative Assembly present at such sitting shall be taken to have been carried, and if the bill with the amendments, if any, is affirmed by a majority of the members of the Senate and Legislative Assembly present at such sitting it shall be taken to have been duly passed by Parliament.

65. When a bill is presented to the Governor-General for the King's assent, he shall declare according to his discretion, but subject to the provisions of this Act, that he assents in the King's name or that he withholds assent or that he reserves the bill for the signification of the King's pleasure.

The Governor-General may return to the House in which it originated any bill so presented to him, and may transmit therewith any amendments which he may recommend, and the House may deal with the recommendation.

66. The King may disallow any law within one year after it has been assented to by the Governor-General, and such disallowance, on being made known by the Governor-General by speech or message to each of the Houses of Parliament or by proclamation, shall annul the law from the day when the disallowance is so made known.

67. A bill reserved for the King's pleasure shall not have any force unless and until within one year from the day on which it was presented to the Governor-General for the King's assent the Governor-General makes known by speech or message to each of the Houses of the Parliament or by proclamation that it has received the King's assent.

68. As soon as may be after any law shall have been assented to in the King's name by the Governor-General or, having been reserved for the King's pleasure, shall have received his assent, the Clerk of the Legislative Assembly shall cause two fair copies of such law, one being in the English and the other in the Dutch language, and one of which copies shall be signed by the Governor-General, to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa, and such copies shall be conclusive evidence as to the provisions of every such law; and in case of conflict between the two copies thus deposited that signed by the Governor-General shall prevail.

THE PROVINCES.

Administrators.

69. (i) In each Province there shall be a Chief Executive Officer appointed by the Governor-General-in-Council, who shall be styled the Administrator of the Province, and in whose name all executive acts relating to provincial affairs therein shall be done.

(ii) In the appointment of the Administrator of any Province the Governor-General-in-Council shall, as far as prac-

ticable, give preference to persons resident in such Province.

(iii) Such Administrator shall hold office for a term of five years and shall not be removed before the expiration thereof except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal if Parliament be then sitting, and if Parliament be not sitting then within one week after the commencement of the next ensuing session.

(iv) The Governor-General-in-Council may from time to time appoint a Deputy Administrator to execute the office and functions of the Administrator during his absence, illness or other inability.

70. The salaries of the Administrators shall be fixed and provided by Parliament and shall not be reduced during their respective terms of office.

Provincial Councils.

71. There shall be a Provincial Council in each Province consisting in the original provinces of the same number of members as are elected for the Legislative Assembly in the Province: provided that in any province whose representatives in the Legislative Assembly shall be less than twenty-five, the Provincial Council shall consist of twenty-five members.

72. The members of the Provincial Council shall be elected by the persons qualified to vote for the election of members of the Legislative Assembly in the province, voting in the same electoral divisions as are delimited for the election of members of the Legislative Assembly, and according to the principle of proportional representation with the single transferable vote: provided that in any province in which less than twenty-five members are elected to the Legislative Assembly the delimitation of the electoral divisions and any necessary re-allocation of members or adjustment of electoral divisions shall be effected by the same Commission and on the same principles as are prescribed in regard to the electoral divisions for the Legislative Assembly. The elections shall take place at such times as the Administrator shall by proclamation direct, and the provisions of section thirty-six applicable to the election of members of the Legislative Assembly shall *mutatis mutandis* apply to such elections.

73. The provisions of sections fifty-four and fifty-five relative to members of the Legislative Assembly shall *mutatis mutandis* apply to members of the Provincial Councils.

74. Each Provincial Council shall continue for three years from the date of its first meeting, and shall not be subject to dissolution save by effluxion of time.

75. The Administrator of each Province shall by proclamation fix such times for holding the sessions of the Provincial Councils as he may think fit, and may from time to time prorogue such Council: provided that there shall be a session of every Provincial Council once at least in every year, so that no greater period than twelve calendar months shall

intervene between the last sitting of the Council in one session and its first sitting in the next.

76. The Provincial Council may elect its own Chairman and may make rules for the conduct of its proceedings. Such rules shall be transmitted by the Administrator to the Governor-General and shall have full force and effect unless and until the Governor-General-in-Council shall express his disapproval thereof by writing addressed to the Administrator.

77. The members of the Provincial Council shall receive such allowances as shall be determined by the Governor-General-in-Council.

78. There shall be freedom of speech in the Provincial Council, and such freedom of speech shall not be liable to be impeached or questioned in any Court or place out of such Council.

Executive Committees.

79.(i) Each Provincial Council shall at its first meeting after any general election elect from among its members, or otherwise according to the principle of proportional representation with the single transferable vote, such number of persons not being less than three nor more than five, as the Governor-General-in-Council may prescribe in respect of such Province, to form with the Administrator an Executive Committee for the Province. The members of the Executive Committee other than the Administrator shall hold office until the election of their successors in the same manner.

(ii) Such members shall receive such remuneration as the Provincial Council, with the approval of the Governor-General-in-Council, shall determine.

(iii) A member of the Provincial Council shall not be disqualified from sitting as a member by reason of his having been elected as a member of the Executive Committee.

(iv) Any casual vacancy arising in the Executive Committee shall similarly be filled by election by the Provincial Council, if then in session, or, if the Council is not in session, by a person appointed by the Executive Committee to hold office temporarily pending an election by the Council.

80. The Administrator and any other member of the Executive Committee of a Province not being a member of the Provincial Council shall have the right to take part in the debates of the Council, but shall not have the right to vote.

81. The Executive Committee shall, on behalf of the Provincial Council, carry on the administration of provincial affairs. Until the first election of members to serve on the Executive Committee such administration shall be carried on by the Administrator. Wherever there are not sufficient members of the Executive Committee to form a quorum according to the rules of the Committee, the Administrator shall, as soon as practicable, convene a meeting of the Provincial Council for the purpose of election members to fill the vacancies, and until such election the Administrator shall carry on the administration of provincial affairs.

82. Subject to the provisions of this Act, all powers, authorities, and functions, which at the establishment of the Union are in any of the Colonies vested in or exercised by the Governor, or the Governor-in-Council or any Minister of the Colony, shall after such establishment be exercised by the Administrator of the Province, so far as such powers, authorities and functions relate to matters in respect of which a Provincial Council is competent to make ordinances.

83. Questions arising in the Executive Committee shall be determined by a majority of votes of the members present, and in case of an equality of votes the Administrator shall have also a casting vote. Subject to the approval of the Governor-General-in-Council, the Executive Committee may make rules for the conduct of its proceedings.

84. Subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of public officers the Executive Committee shall have power to appoint such officers as may be necessary, in addition to officers transferred to the Province by the Governor-General-in-Council under the provisions of this Act to carry out the services entrusted to them, and to make and enforce regulations for the organisation and discipline of such officers.

85. In regard to all matters in respect of which no powers are reserved or delegated to the Provincial Council, the Administrator shall act on behalf of the Governor-General-in-Council when required to do so, and in such matters the Administrator may act without reference to the other members of the Executive Committee.

Powers of Provincial Councils.

86. Subject to the provisions of this Act and the assent of the Governor-General-in-Council, as hereinafter provided, the Administrator, with the advice and consent of the Provincial Council, may make ordinances in relation to matters coming within the following classes of subjects, that is to say:—

(1) Direct taxation within the Province in order to raise a revenue for Provincial purposes.

(2) The borrowing of money on the sole credit of the Province, with the consent of the Governor-General-in-Council, and in accordance with regulations to be framed by Parliament.

(3) Education, other than higher education, for a period of five years, and thereafter until Parliament otherwise provides.

(4) Agriculture, to the extent and subject to the conditions to be defined by Parliament.

(5) The establishment, maintenance and management of hospitals and charitable institutions.

(6) Municipal institutions, divisional councils and other local institutions of a similar nature.

(7) Local works and undertakings within the Province other than railways, harbours and such works as extend beyond the borders of the Province and subject to the power of Parliament to declare any work a national work, and to provide for its construction by arrangement with the Provincial Council or otherwise.

(8) Roads, outspans, ponts and bridges, other than bridges connecting two Provinces.

(9) Markets and pounds.

(10) Fish and game preservation.

(11) The imposition of punishment by fine, penalty or imprisonment for enforcing any law or any ordinance of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

(12) Generally all matters which in the opinion of the Governor-General-in-Council are of a merely local or private nature in the Province.

(13) All other subjects in respect of which Parliament shall delegate the power of making ordinances to the Provincial Council.

87. Any ordinance made by a Provincial Council shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of Parliament.

88. A Provincial Council may recommend to Parliament the passing of any law relating to any matter in respect of which such Council is not competent to make ordinances.

89. In regard to any matter which requires to be dealt with by means of a private Act of Parliament, it shall be lawful for the Provincial Council, subject to such procedure as shall be laid down by Parliament, to take evidence by means of a Select Committee or otherwise for and against the passing of such law, and upon receipt of a report from such Council, together with the evidence upon which it is founded, it shall be lawful for Parliament to pass such Act without further evidence being taken in support thereof.

90. It shall not be lawful for any Provincial Council to pass an ordinance appropriating money to any public service unless the Administrator shall have first recommended to the Council to make provision for the specific services to which such money is to be appropriated, and no such money shall be issued except under warrant signed by the Administrator.

91. When a proposed ordinance has been passed by a Provincial Council it shall be presented by the Administrator to the Governor-General-in-Council for his assent. The Governor-General-in-Council shall declare within one month from the presentation to him of the proposed ordinance that he assents thereto, or that he withholds assent, or that he reserves the proposed ordinance for further consideration. A proposed ordinance so reserved shall not have any force unless and until within one year from the day on which it was presented to the Governor-General-in-Council he makes known by proclamation that it has received his assent.

92. A proposed ordinance so assented to and promulgated shall, subject to the provisions of this Act, have the force of law within the Province.

The Administrator shall cause two fair copies of every such ordinance, one being in the English and the other in the Dutch language, and one of which copies shall be signed by the Governor-General, to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa, and such copies shall be conclusive evidence as to the provisions of such ordinance, and in case of conflict between the two copies thus deposited that signed by the Governor-General shall prevail.

Miscellaneous.

93. (i) In each province there shall be an Auditor of Accounts, to be appointed by the Governor-General-in-Council.

(ii) No such Auditor shall be removed from office except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, and, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(iii) Each such Auditor shall receive out of the Consolidated Revenue Fund such salary as the Governor-General, with the approval of Parliament, shall determine.

(iv) Each such Auditor shall examine and audit the Accounts of the Province to which he is assigned, subject to such regulations and orders as may be framed by the Governor-General-in-Council and approved by Parliament, and no warrant signed by the Administrator authorising the issue of money shall have effect unless countersigned by such Auditor.

94. Notwithstanding anything in this Act contained, all powers, authorities and functions lawfully exercised at the establishment of the Union by divisional or municipal councils or any other duly constituted local authority shall be and remain in force until varied or withdrawn by Parliament, or by a Provincial Council having power in that behalf.

94A. The seat of Government of each Province shall be:

For the Cape of Good Hope	.....
For Natal	.....
For the Transvaal	.....
For Orange	...

The Supreme Court of South Africa.

95. There shall be a Supreme Court of South Africa, consisting of a Chief Justice of South Africa, the ordinary Judges of Appeal, and the Chief Justices and other Judges of the several divisions of the Supreme Court of South Africa in the Provinces.

96. There shall be an Appellate Division of the Supreme Court of South Africa, consisting of the Chief Justice of

South Africa, two ordinary Judges of Appeal, and two additional Judges of Appeal. Such additional Judges of Appeal shall from time to time be temporarily assigned by the Governor-General-in-Council to the Appellate Division from any of the Provincial divisions of the Supreme Court of South Africa, but shall continue to perform their duties as Judges of their respective Divisions when their attendance is not required in the Appellate Division.

97. The Governor-General-in-Council, during the absence, illness or other incapacity of the Chief Justice of South Africa or of any ordinary Judge of Appeal, may appoint any Judge of the Supreme Court of South Africa to act temporarily as Chief Justice or ordinary Judge of Appeal.

98. The several Supreme Courts of the Cape of Good Hope, Natal, and the Transvaal, and the High Court of the Orange River Colony, shall, on the establishment of the Union, become divisions of the Supreme Court of South Africa in their respective Provinces. Such divisions, as well as the Court of the Eastern Districts, the High Court of Witwatersrand, the High Court of Griqualand and the several Circuit Courts shall, in addition to any original jurisdiction exercised by them at the date of Union, have jurisdiction within the limits of their respective Provinces or other local areas in all matters in which the Government of the Union, or a person suing or being sued on behalf of such Government, is a party and in which the validity of any Provincial Ordinance shall come into question. Unless and until Parliament shall otherwise provide, the different Provincial divisions of the Supreme Court of South Africa shall further have jurisdiction in all matters affecting the validity of elections of members of Parliament and of the Provincial Councils.

99. All Judges of the Supreme Courts of the Colonies, including the High Court of the Orange River Colony, holding office at the establishment of the Union, shall on such establishment become Judges of the Supreme Court of South Africa, assigned to the divisions of the Supreme Court in the respective Provinces, and shall retain all such rights in regard to salaries and pensions as they may possess at the establishment of the Union.

100. The Chief Justice of South Africa, the ordinary Judges of Appeal, and all other Judges of the Supreme Court of South Africa to be appointed after the Union shall be appointed by the Governor-General-in-Council, and shall receive such remuneration as Parliament shall prescribe, and their remuneration shall not be diminished during their continuance in office.

101. The Chief Justice of South Africa and other Judges of the Supreme Court of South Africa shall not be removed from office except by the Governor-General-in-Council on an address from both Houses of Parliament in the same session, praying for such removal on the ground of misbehaviour or incapacity.

102. Upon any vacancy occurring in any division of the Supreme Court of South Africa other than the Appellate Division, the Governor-General-in-Council may, in case he shall consider that the number of Judges of such Court may with advantage to the public interests be reduced, postpone filling the vacancy until Parliament shall have determined whether such reduction shall take place.

103. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made to the Supreme Court of any Colony or to the High Court of the Orange River Colony from a Superior Court in any of the Colonies, or from the High Court of Southern Rhodesia, the appeal shall be made only to the Appellate Division of the Supreme Court of South Africa.

104. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from the Supreme Court of any Colony, or from the High Court of the Orange River Colony to the King-in-Council, the appeal shall be made only to the Appellate Division of the Supreme Court of South Africa: Provided that the right of appeal in any civil suit shall not be limited by reason only of the amount claimed or awarded in such suit.

105. Appeals from Courts of Resident Magistrate and from other inferior Courts in civil and criminal suits shall be made to such of the Superior Courts of the respective provinces as may have jurisdiction in that behalf at the establishment of the Union, but there shall be no further appeal against any judgment given on appeal by such Superior Court except to the Appellate Division of the Supreme Court of South Africa, and then only if such Appellate Division shall have given special leave to appeal.

106. There shall be no appeal from the Supreme Court of South Africa or from any division thereof to the King-in-Council, but nothing herein contained shall be construed to impair any right which the King-in-Council may be pleased to exercise to grant special leave to appeal from the Appellate Division to the King-in-Council. Parliament may make laws limiting the matters in respect of which such special leave may be asked, but bills containing any such limitation shall be reserved by the Governor-General for the signification of His Majesty's pleasure.

107. The Chief Justice of South Africa and the ordinary Judges of Appeal may, subject to the approval of the Governor-General-in-Council, make rules for the conduct of the proceedings of the Appellate Division of the Supreme Court of South Africa. Until such rules shall have been promulgated the rules in force in the Supreme Court of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply.

108. The Judges of every Provincial division of the Supreme Court of South Africa may frame rules for the conduct of the proceedings of such division, and such rules shall

be subject to the approval of the Governor-General-in-Council in consultation with the Chief Justice of South Africa. Until such rules shall have been promulgated for any such division the rules in force at the establishment of the Union in the respective Courts which become divisions of the Supreme Court of South Africa shall continue to apply in such divisions respectively.

109. The Appellate Division of the Supreme Court of South Africa shall sit in ....., but may from time to time for the convenience of suitors hold its sittings at other places within the Union.

110. On the hearing of appeals from a Court consisting of two or more Judges, five Judges of the Appellate Division shall form a quorum, but on the hearing of appeals from a single Judge three Judges of the Appellate Division shall form a quorum. No Judge shall take part in the hearing of any appeal against the judgment given in a case heard before him.

111. The process of the Appellate Division shall run throughout the Union, and all its judgments or orders shall have full force and effect in every province, and shall be executed in such manner as any original judgments or orders of the Provincial Superior Courts might have been executed.

112. The Registrar of every Provincial division of the Supreme Court of South Africa, if thereto requested by any party in whose favour any judgment or order has been given or made by any other division, shall, upon the deposit with him of an authenticated copy of such judgment or order, and on proof that the same remains unsatisfied, issue a writ or other process for the execution of such judgment or order, and thereupon such writ or other process shall be executed in like manner as if it had been originally issued from the division of which he is Registrar.

113. Any Provincial division of the Supreme Court of South Africa to which it may be made to appear that any civil suit depending therein may be more conveniently or fitly heard or determined in another division may order the same to be removed to such other division, and thereupon such last-mentioned division may proceed with such suit in like manner as if it had been originally commenced therein.

114. The Governor-General-in-Council may appoint a Registrar of the Appellate Division of the Supreme Court of South Africa, and such other officers thereof as shall in the opinion of the Chief Justice of South Africa be required for the proper dispatch of the business thereof.

115. (i) The laws regulating the admission of advocates and attorneys to practise before any Supreme Court of a Colony or the High Court of the Orange River Colony, shall *mutatis mutandis* apply to the admission of advocates and attorneys to practise in the respective Provincial divisions of the Supreme Court of South Africa.

(ii) All advocates and attorneys entitled at the establishment of the Union to practise in the Supreme Court of any Colony or in the High Court of the Orange River Colony shall be entitled to practise as such in the corresponding provincial division of the Supreme Court of South Africa.

(iii) All advocates and attorneys entitled to practise before any Provincial division of the Supreme Court of South Africa shall be entitled to practise before the Appellate Division of such Supreme Court.

116. All suits, civil or criminal, pending in any Superior Court of any Colony at the establishment of the Union shall stand removed to the corresponding division of the Supreme Court of South Africa, which shall have jurisdiction to hear and determine the same.

Finance and Railways.

F (1.) All revenues, from whatever source arising, over which the several Colonies have at the establishment of the Union power of appropriation shall vest in the Governor-General-in-Council. There shall be formed a Railway and Harbour Fund, into which shall be paid all revenues raised or received by the Governor-General-in-Council from the administration of the railways, ports and harbours, and such fund shall be appropriated by Parliament to the purposes of the railways, ports and harbours in the manner prescribed by this Act. There shall also be formed a Consolidated Revenue Fund, into which shall be paid all other revenues raised or received by the Governor-General-in-Council, and such fund shall be appropriated by Parliament for the purposes of the Union in the manner prescribed by this Act and subject to the charges imposed thereby.

F (2.) The Governor-General-in-Council shall, as soon as may be after the establishment of the Union, appoint a Commission, consisting of one representative from each Province and presided over by an officer from the Imperial Service, to institute an inquiry into the financial relations which should exist between the Union and the Provinces. Pending the completion of that inquiry and until Parliament otherwise provides, there shall be paid annually out of the Consolidated Revenue Fund to the Administrator of each Province:

(*a*) An amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year 1908-9, as voted by the Parliaments of the respective Colonies during the year 1908:

(*b*) Such further sums as the Governor-General-in-Council may consider necessary for the due performance of the services and duties assigned to the Provinces respectively. Until such inquiry shall be completed and Parliament shall have made other provision, the Executive Committees in the several Provinces shall annually submit estimates of their expenditure for the approval of the Governor-General-in-Council, and no expenditure shall be incurred by any Executive

Committee which is not provided for in such approved estimates.

F (3.) The Consolidated Revenue Fund shall be permanently charged with the costs, charges and expenses incident to the collection, management and receipt thereof, and the same shall form the first charge thereon.

F (4.) The annual interest of the public debts of the Colonies and any sinking funds constituted by law at the establishment of the Union shall form the second charge on the Consolidated Revenue Fund.

F (5.) Subject to the several payments by this Act charged on the Consolidated Revenue Fund, the same shall be appropriated by Parliament for the public service.

F (6.) No money shall be withdrawn from the Consolidated Revenue Fund or the Railway and Harbour Fund, except under appropriation made by law. But until the expiration of two months after the first meeting of Parliament, the Governor-General-in-Council may draw therefrom and expend such moneys as may be necessary for the public service and for railway and harbour administration respectively.

F (7.) All stocks, cash, bankers' balances and securities for money belonging to each Colony at the establishment of the Union shall be the property of the Union. Provided that the balances of any funds raised at the date of the Union by law for any special purposes, in any of the Colonies, shall be deemed to have been appropriated by Parliament for the special purposes for which they have been provided.

F (8.) Crown lands, public works and all property throughout the Union, movable or immovable, belonging to the several Colonies at the establishment of the Union, and all rights of whatever description shall vest in the Governor-General-in-Council, subject to any debt or liability specifically charged thereon.

F (9.) All rights in and to mines and minerals and all rights in connection with the searching for, working for or disposing of minerals or precious stones which at the date of the establishment of the Union are vested in the Government of any of the Colonies shall on the establishment of the Union vest in the Governor-General-in-Council.

F (10.) The Union shall assume all debts and liabilities of the several Colonies existing at the establishment of the Union, subject to the conditions imposed by any law under which such debts or liabilities were raised or incurred and may convert, renew or consolidate such debts.

F (11.) All ports, harbours and railways belonging to the several Colonies at the establishment of the Union shall from the date thereof vest in the Governor-General-in-Council. No public railway, port, harbour or similar work shall be constructed without the sanction of Parliament.

F (12.) Subject to the authority of the Governor-General-in-Council, the control and management of the railways, ports and harbours of the Union shall be exercised through a

Board consisting of not more than three Commissioners who shall be appointed by the Governor-General-in-Council and a Minister of State, who shall be Chairman. Each Commissioner shall hold office for a period of five years, but may be reappointed. He shall not be removed before the expiration of his period of appointment except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session. The salaries of the Commissioners shall be fixed and provided by Parliament, and shall not be reduced during their respective terms of office.

F (13.) The railways, ports and harbours of the Union shall be administered on business principles, due regard being had to agricultural and industrial development within the Union and the promotion, by means of cheap transport, of the settlement of an agricultural and industrial population in the inland portions of the Union.

So far as may be, the total earnings shall be not more than are sufficient to meet the necessary outlays for working, maintenance, betterment, depreciation and the payment of interest due on capital, not being capital contributed out of railway or harbour revenue, and not being interest on any capital which Parliament may provide in accordance with the provisions of section ..... (16, Finance Section). The amount of interest due on such capital invested shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund.

The Governor-General-in-Council shall give effect to the provisions of this section as soon and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of four years from the establishment of the Union.

F (14.) The Board may establish a fund to be used for maintaining as far as may be uniformity of rates to meet fluctuations in traffic.

F (15.) All balances, standing to the credit of any fund established in any of the Colonies for railway or harbour purposes at the establishment of the Union shall be under the sole control and management of the Railway and Harbour Board, and shall be deemed to have been appropriated by Parliament for the respective purposes for which they have been provided.

F (16.) Every proposal for the construction of any port or harbour works or of any line of railway before being submitted to Parliament, shall be considered by the Board, who shall report thereon, and shall advise whether the proposed works or line of railway should or should not be constructed. If any such works or line shall be constructed contrary to the advice of the Board, and if the Board are of opinion that the revenue derived from the operation of such works or line

will be insufficient to meet the costs of working and maintenance and of interest on the capital invested therein they shall frame an estimate of the annual loss which in their opinion will result from such operation. Such estimate shall be examined by the Controller and Auditor-General, and when approved by him the amount thereof shall be paid over annually from the Consolidated Revenue Fund to the Railway and Harbour Fund. Provided that if in any year the actual loss incurred as calculated by the Board and certified to by the Controller and Auditor-General is less than the estimate framed by the Board the amount paid over in respect of that year shall be reduced accordingly so as not to exceed the actual loss incurred.

In calculating the loss arising from the operation of any such work or line, the Board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

F (17.) If the Board shall be required by the Governor-General-in-Council or under any Act of Parliament to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities the Board shall at the end of each financial year present to Parliament an account approved by the Controller and Auditor-General showing as nearly as can be ascertained the amount of the loss incurred by reason of the provision of such services and facilities, and such amount shall be paid out of the Consolidated Revenue Fund to the Railway and Harbour Fund.

F (18.) The Governor-General-in-Council shall appoint a fit person to be Controller and Auditor-General who shall not be removed from office except for cause shewn, which shall be communicated in writing to him and by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session. He shall be paid out of the Consolidated Revenue Fund such salary as the Governor-General-in-Council may, subject to the approval of Parliament, direct. Until Parliament shall otherwise provide, the Controller and Auditor-General shall exercise such powers and functions and undertake such duties as may be assigned to him by the Governor-General-in-Council by regulations framed in that behalf.

F (19.) In order to compensate for any loss sustained by any town which at the establishment of the Union is the capital of any of the Colonies in the form of diminution of prosperity or decreased rateable value by reason of the capital of the Union being placed elsewhere, there shall be paid from the Consolidated Revenue Fund to the Municipal Council of such town for a period not exceeding twenty-five years, a grant of two per cent. per annum on the amount of the municipal debt of such town. One-half of such grant shall

be applied to the redemption of the municipal debt of such town as ascertained by the Auditor-General of the Union.

For the purpose of this Clause, Cape Town shall be deemed to include the municipalities of Cape Town, Green Point and Sea Point, Woodstock, Mowbray, Rondebosch, Claremont and Wynberg, and any sum paid under this section in respect of Cape Town shall be paid to the Councils of those municipalities in proportion to their respective debts.

Provided that the debts of the several municipalities shall be treated as not exceeding the following amounts:—

Cape Town and Suburbs	£4,450,000
Maritzburg	£1,219,000
Pretoria	£1,000,000
Bloemfontein	£868,000

Provided that at any time after the expiration of ten years the Governor-General-in-Council, with the approval of Parliament, may, after due inquiry, withdraw or reduce the grant to all or any of the towns in question.

General.

117. The seat of Government .....

118. Subject to the provisions of this Act all laws in force in the several Colonies at the establishment of the Union shall continue in force in the respective Provinces until repealed or amended by Parliament or by the Provincial Councils in matters in respect of which the power to make ordinances shall have been reserved or delegated to them.

All legal commissions in the several colonies at the establishment of the Union shall continue as if the Union had not been established.

119. Both the English and Dutch languages shall be official languages of the Union, and shall be treated on a footing of equality and possess and enjoy equal freedom, rights and privileges; all records, journals and proceedings of Parliament shall be kept in both languages, and all Bills, Acts and Notices of general public importance or interest issued by the Government of the Union shall be in both languages.

120. All persons of European descent who have been naturalised in any of the Colonies shall be deemed to be naturalised throughout the Union.

121. The administration of Justice throughout the Union shall be under the control of a Minister of State in whom shall be vested all powers, authorities and functions which shall at the establishment of the Union be vested in the Attorneys-General of the Colonies, save and except all powers, authorities and functions relating to the prosecution of crimes and offences, which shall in each province be vested in an officer to be appointed by the Governor-General-in-Council, and styled the Attorney-General of the Province.

122. All officers of the public service of the several Colonies shall at the establishment of the Union become officers of the Union.

123. (i) As soon as possible after the passing of this Act the Governor-General-in-Council shall appoint a public service Commission to make recommendations for such reorganisation and readjustment of the departments of the public service as may be necessary. The Commission shall also make recommendations in regard to the transfer of officers to the several provinces.

(ii) The Governor-General shall after such Commission has reported transfer from time to time to each Province such officers as may be necessary for the proper discharge of the services assigned to it and such officers on being so transferred shall become officers of the Province. Pending the transfer of such officers the Governor-General-in-Council may place at the disposal of the provinces the services of such officers of the Union as may be necessary.

(iii) The provisions of this section shall not apply to any service or department under the control of the Railway and Harbour Board or to any person holding office under the Board.

124. After the establishment of the Union the Governor-General-in-Council shall appoint a permanent Public Service Commission with such powers and duties relating to the appointment, discipline, retirement and superannuation of public officers as Parliament shall determine.

125. Any officer of the public service of any of the Colonies at the establishment of the Union who is not retained in the service of the Union or of a Province shall be entitled to receive such pension, gratuity or other compensation as he would have received in like circumstances if the Union had not been established.

126. Any officer of the public service of any of the Colonies at the establishment of the Union who is retained in the service of the Union or of a Province shall retain all his existing and accruing rights and shall be entitled to retire from the service at the time and on the pension or retiring allowance to which he would have been entitled by law in like circumstances if the Union had not been established.

127. The services of no officer in the public service of the Colonies at the establishment of the Union shall be dispensed with by reason of his want of knowledge of either the English or Dutch language.

128. Any permanent officer of the Parliament of any of the Colonies who is not retained in the service of the Union or of any Province and for whom no provision shall have been made by such Parliament shall be entitled to such pension, gratuity or compensation as Parliament may determine.

129. The control and administration of native affairs throughout the Union shall vest in the Governor-General-in-Council, who shall likewise exercise all special powers in regard to native administration hitherto vested in the Governors of the Colonies or exercised by them as Supreme Chiefs.

Treaty Rights.

130. All rights and obligations under any Conventions or agreements which are binding on any of the Colonies shall devolve upon the Union at its establishment.

New Provinces and Territories.

131. Parliament may on the petition of the Provincial Council of the Province affected alter the boundaries of any Province, divide any Province into two or more Provinces, or form a new Province out of existing Provincial areas.

132. The King with the advice of the Privy Council may on addresses from the Houses of Parliament of the Union admit into the Union Colonies not originally included therein and territories including the territories administered by the British South Africa Company on such terms and conditions as to representation and otherwise in each case as are in the addresses expressed and approved by the King and the provisions of any Order-in-Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

133. The King with the advice of the Privy Council may on addresses from the Houses of Parliament of the Union transfer to the Union the Government of any Territories other than the territories administered by the British South Africa Company of or under the protectorate of His Majesty inhabited wholly or in part by natives and upon such transfer the Governor-General-in-Council may undertake the Government of such territory upon the terms and conditions embodied in the Schedule to this Act.

Amendment of the Constitution.

134. Parliament may by law repeal or alter any of the provisions of this Act provided that no provision thereof, for the operation of which a definite period of time is prescribed shall during such period be repealed or altered, and provided further that no repeal or alteration of the provisions contained in this section or in sections thirty and thirty-one until the number of members of the Legislative Assembly has reached the limit therein prescribed, or in sections thirty-three and one hundred and nineteen, shall be valid unless the bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses.

Schedule.

(1) After the transfer of the Government of any Territory of or under the protectorate of His Majesty the Governor-General-in-Council shall be the legislative authority, and may by proclamation make laws for the peace, order and good government of such territory: provided that all such laws shall be laid before both Houses of Parliament within seven days after the issue of the Proclamation or, if Parliament be not

then sitting, within seven days after the beginning of the next session, and shall be effectual unless and until both Houses of Parliament shall by resolution request the Governor-General-in-Council to repeal the same in which case they shall be repealed by Proclamation.

(2) The Prime Minister shall be charged with the administration of any Territory thus transferred, and he shall be advised in such administration by a Commission consisting of not fewer than three members with a Secretary to be appointed by the Governor-General-in-Council.

(3) The members of the Commission shall be appointed by the Governor-General-in-Council, and shall be entitled to hold office for a period of ten years, but such period may be extended to successive further terms of five years. They shall each be entitled to a fixed annual salary which shall not be reduced during the continuance of their term of office, and they shall not be removed from office except upon addresses from both Houses of Parliament. They shall not be eligible to become members of either House of Parliament. One of the members of the Commission shall be appointed by the Governor-General-in-Council as Vice-Chairman thereof. In case of the absence, illness or other incapacity of any member of the Commission the Governor-General-in-Council may appoint some other fit and proper person to act during such absence, illness or other incapacity.

(4) It shall be the duty of the members of the Commission to advise the Prime Minister upon all matters relating to the administration of, or the legislation for, the said Territories. The Prime Minister or another Minister of State as his deputy, or failing them the Vice-Chairman, shall preside at all meetings of the Commission, and in case of an equality of votes, shall have a casting vote. Two members of the Commission shall, with the Prime Minister or his deputy, form a quorum. In case the Commission shall consist of four or more members three of them shall form a quorum.

(5) Any member of the Commission who dissents from the decision of a majority shall be entitled to have the reasons for his dissent recorded in the minutes of the Commission.

(6) The members of the Commission shall have access to all official papers concerning the Territories and they may deliberate on any matter relating thereto and tender their advice thereon to the Prime Minister.

(7) Before coming to a decision on any matter relating either to the administration, other than routine, of the said Territories or to legislation therefor the Prime Minister shall cause the papers relating to such matter to be deposited with the Secretary to the Commission, and shall convene a meeting of the Commission for the purpose of obtaining its opinion on such matter.

(8) Where it appears to the Prime Minister that the dispatch of any communication or the making of any order is urgently required the communication may be sent or order

made, although it has not been submitted to a meeting of the Commission or deposited for the perusal of the members thereof.

In any such case the Prime Minister shall record the urgent reasons for sending the communication or making the order and give notice thereof to every member.

(9) If the Prime Minister does not accept a recommendation of the Commission or proposes to take some action contrary to their advice he shall state his views to the Commission, who shall be at liberty to place on record the reasons in support of their recommendation or advice. This record shall be laid by the Prime Minister before the Governor-General-in-Council, whose decision in the matter shall be final.

(10) When the recommendations of the Commission have not been accepted by the Governor-General-in-Council or action not in accordance with their advice has been taken by the Governor-General-in-Council, the Prime Minister, if thereto requested by the Commission, shall lay the record of their dissent from the decision of action taken, and of the reasons therefor before both Houses of Parliament, unless in any case the Governor-General-in-Council shall be of opinion that the publication of such record and reasons would be gravely detrimental to the public interest.

(11) The Governor-General-in-Council shall appoint a Resident Commissioner for each Territory who shall in addition to such other duties as shall be conferred on him by the Governor-General-in-Council prepare the annual estimates of revenue and expenditure for such Territory and forward the same to the Prime Minister. After such estimates have been submitted to the Commission and approved of or amended by the Prime Minister the Resident Commissioner shall, subject to regulations to be framed in that behalf by the Governor-General-in-Council act in accordance with such estimates.

(12) There shall be paid into the Treasury of the Union all duties of Customs levied on dutiable articles imported into and consumed in the Territories, and there shall be paid out of the Treasury annually towards the cost of administration of each Territory a sum in respect of such duties which shall bear to the total customs revenue of the Union in respect of each financial year the same proportion as the average of the customs revenue for the three completed financial years last preceding the taking effect of this Act bore to the average of the whole customs revenue for all the Colonies and Territories included in the Union received during the same period.

(13) In case the revenue of any Territory for any financial year shall be insufficeint to meet the expenditure the deficiency shall be advanced by the Government of the Union. In case there shall be a surplus for any Territory such surplus shall in the first instance be devoted to the repayment of any sums previously advanced by the Union Government to cover any de-

ficiency in such Territory, and thereafter it shall be lawful for the Governor-General-in-Council to lend the whole or any part of such surplus to another such Territory.

(14) It shall not be lawful to alienate any land in Basutoland or any land forming part of the natives reserves in the Bechuanaland Protectorate and Swaziland from the native tribes inhabiting those Territories.

(15) The sale of liquor to natives shall be prohibited in the said Territories.

(16) The custom, where it exists, of holding pitsos or other recognised forms of native assembly shall be maintained in the said Territories.

(17) No differential duties or imposts on the produce of the Territories shall be levied. The laws of the Union relating to customs and excise shall be made to apply to the Territories.

(18) There shall be free intercourse for the black and white inhabitants of the Territories with the rest of South Africa, subject to the laws, including the Pass Laws, of the Union.

(19) Subject to the provisions of this Schedule all revenues derived from any Territory shall be expended for and on behalf of such Territory.

(20) The King may disallow any law made by the Governor-General-in-Council by Proclamation for any Territory within one year from the date of the Proclamation and such disallowance on being made known by the Governor-General by Proclamation shall annul the law from the day when the disallowance is so made known.

(21) The members of the Commission shall be entitled to such pensions or superannuation allowances as the Governor-General-in-Council shall by Proclamation provide and the salaries and pensions of such members and all other expenses of the Commission shall be borne by the different Territories in the proportion of their respective revenues.

(22) The rights of Civil Servants employed in any Territory as existing on the 16th December, 1908, shall remain in force.

(23) In lieu of any appeal which may by law be made to the King-in-Council from any Court of the Territories such appeals shall, subject to the provisions of this Act, be made to the Appellate Division of the Supreme Court of South Africa.

(24) The Governor-General-in-Council shall prepare an annual report on the Territories and lay the same before both Houses of Parliament.

(25) All proposed laws to amend or alter the provisions of this Schedule shall be reserved for the signification of His Majesty's pleasure.

[F]

FIRST REPORT OF THE CONVENTION WITH DRAFT ACT AS AGREED TO AT CAPE TOWN FOR SUBMISSION TO THE VARIOUS PARLIAMENTS.

Report.

The delegates to the South African National Convention have the honour to report to the respective Parliaments which appointed them as follows:—

Having been instructed to consider and report on the most desirable form of Union, they consider that these instructions could be most conveniently carried out by embodying the resolutions adopted by them in the form of a Draft Act which will clearly convey the exact nature of the Constitution recommended by the Convention.

The Draft Act is annexed to this Report.

The delegates having also been instructed in consultation with the Governments of the self-governing Colonies to determine the further steps to be taken in reference to the Draft Constitution beg to make the following recommendations:—

I. The Parliaments to meet on the 30th March for the purpose of discussing the Draft Act.

II. The Convention to re-assemble, if necessary, in Bloemfontein on a day in May, to be fixed by the President of the Convention in consultation with the Prime Ministers of the Colonies.

III. In June the final draft to be submitted to the Parliaments to pass the addresses for Union. This submission to be as far as practicable simultaneous.

IV. As soon as possible thereafter a Committee, consisting of delegates appointed by the Governments of the Colonies which have passed such addresses to proceed to England for the purpose of affording information to His Majesty's Government and facilitating the passing of the Act.

Draft Act.

WHEREAS it is desirable for the welfare and future progress of South Africa that the several British Colonies therein should be united under one Government in a legislative union under the Crown of Great Britain and Ireland;

And Whereas it is expedient to make provision for the union of those Colonies which may assent thereto and to define the executive legislative and judicial powers to be exercised in the government of the Union;

And Whereas it is expedient to make provision for the establishment of Provinces with powers of legislation and administration in local matters, and in such other matters as may be specially reserved for provincial legislation and administration;

And Whereas it is expedient to provide for the eventual admission into the Union as Provinces or Territories of such parts of South Africa as are not originally included therein;

Be it therefore enacted, etc.

I. PRELIMINARY.

1. This Act may be cited as the South Africa Act, 19.....

2. In this Act the words "the Union" shall, unless it is otherwise expressed or implied, be taken to mean South Africa as constituted under this Act.

3. The provisions of this Act referring to the King shall extend to His Majesty's heirs and successors in the sovereignty of the United Kingdom of Great Britain and Ireland.

II. THE UNION.

4. It shall be lawful for the King, with the advice of the Privy Council, to declare by proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, any two or more of the Colonies of the Cape of Good Hope, Natal, the Transvaal and the Orange River Colony, hereinafter called the Colonies, which shall, before the passing of this Act or thereafter before the date of such proclamation, have agreed thereto either by act of Parliament or by resolutions of both Houses of Parliament shall be united in a legislative union under one Government under the name of South Africa. On and after the day appointed by such proclamation the Government and Parliament of the Union shall have full power and authority within the limits of the Colonies which shall have so agreed, but the King may at any time after the proclamation appoint a Governor-General for the Union.

5. The provisions of this Act shall, unless it is otherwise expressed or implied, take effect on and after the day so appointed.

6. Such of the Colonies as shall have agreed to enter the Union before the date of the proclamation mentioned in section four shall become original Provinces of the Union under the names of Cape of Good Hope, Natal, Transvaal and Orange Free State, as the case may be. The original Provinces shall have the same limits as the respective Colonies at the establishment of the Union. If any of the Colonies do not become original Provinces all provisions in respect of them contained in this Act shall be inoperative, and it shall not be competent for them to enter the Union except in the manner hereinafter provided for the admission into the Union of new Provinces.

III. EXECUTIVE GOVERNMENT.

7. The Executive Government of South Africa is vested in the King and shall be administered by His Majesty in person or by a Governor-General as his representative.

8. The Governor-General shall be appointed by the King, and shall have and may exercise in the Union during the King's pleasure, but subject to this Act, such powers and functions of the King as His Majesty may be pleased to assign to him.

9. There shall be payable to the King out of the Consolidated Revenue Fund of the Union for the salary of the Governor-General an annual sum of ten thousand pounds. The salary of the Governor-General shall not be altered during his continuance in office.

10. The provisions of this Act relating to the Governor-General extend and apply to the Governor-General for the time being or such person as the King may appoint to administer the Government of the Union.

11. There shall be an Executive Council to advise the Governor-General in the government of the Union and the members of the Council shall be chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during his pleasure.

12. The provisions of this Act referring to the Governor-General-in-Council shall be construed as referring to the Governor-General acting with the advice of the Executive Council.

13. The Governor-General may appoint officers not exceeding ten in number to administer such departments of state of the Union as the Governor-General-in-Council may establish; such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Executive Council and shall be the King's ministers of state for the Union. After the first general election of members of the House of Assembly as hereinafter provided no minister shall hold office for a longer period than three months unless he is or becomes a member of either House of Parliament.

14. The appointment and removal of all officers of the public service of the Union shall be vested in the Governor-General-in-Council, unless the appointment is delegated by the Governor-General-in-Council or by this Act or by a law of Parliament to some other authority.

15. All powers authorities and functions which at the establishment of the Union are in any of the Colonies vested in the Governor or in the Governor-in-Council or in any authority of the Colony shall as far as the same continue in existence and are capable of being exercised after the establishment of the Union be vested in the Governor-General or in the Governor-General-in-Council or in the authority exercising similar powers under the Union, as the case may be, except such powers and functions as are by this Act or may by a law of Parliament be vested in some other authority.

16. The command in chief of the naval and military forces within the Union is vested in the King or in the Governor-General as his representative.

17. Save as in section twenty-two excepted Pretoria shall be the seat of Government of the Union.

IV. PARLIAMENT.

18. The legislative power of the Union shall be vested in the Parliament of the Union, herein called Parliament, which shall consist of the King a Senate and a House of Assembly.

19. The Governor-General may appoint such times for holding the sessions of Parliament as he thinks fit and may also from time to time, by proclamation or otherwise, prorogue Parliament, and may in like manner dissolve the Senate and the House of Assembly simultaneously or the House of Assembly alone: provided that the Senate shall not be dissolved within a period of ten years after the establishment of the Union, and provided further that the dissolution of the Senate shall not affect any senators nominated by the Governor-General-in-Council.

20. Parliament shall be summoned to meet not later than six months after the establishment of the Union.

21. There shall be a session of Parliament once at least in every year so that a period of twelve months shall not intervene between the last sitting of Parliament in one session and its first sitting in the next session.

22. Cape Town shall be the seat of the Legislature of the Union.

Senate.

23. For ten years after the establishment of the Union the constitution of the Senate shall be as follows:—

(i) Eight senators shall be nominated by the Governor-General-in-Council and for each original Province eight senators shall be elected in the manner hereinafter provided.

(ii) The senators to be nominated by the Governor-General-in-Council shall hold their seats for ten years. One-half of their number shall be selected on the ground mainly of their thorough acquaintance by reason of their official experience or otherwise with the reasonable wants and wishes of the coloured races in South Africa. If the seat of a senator so nominated shall become vacant the Governor-General-in-Council shall nominate another person to be a senator who shall hold his seat for ten years.

(iii) After the passing of this Act and before the day appointed for the establishment of the Union, the Governor of each of the Colonies shall summon a special sitting of both Houses of the Legislature and the two Houses sitting together as one body and presided over by the Speaker of the Legislative Assembly shall elect eight persons to be senators for the Province. Such senators shall hold their seats for ten years. If the seat of a senator so elected shall become vacant the Provincial Council of the Province for which such senator has been elected shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat.

24. Parliament may provide for the manner in which the Senate shall be constituted after the expiration of ten years, and unless and until such provision shall have been made

(i) the provisions of the last preceding section with regard to nominated senators shall continue to have effect;

(ii) eight senators for each Province shall be elected by the members of the Provincial Council of such Province together

with the members of the House of Assembly elected for such Province. Such senators shall hold their seats for ten years unless the Senate be sooner dissolved. If the seat of an elected senator shall become vacant, the members of the Provincial Council of the Province together with the members of the House of Assembly elected for such Province shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat. The Governor-General-in-Council shall make regulations for the joint election of senators prescribed in this section.

25. The qualifications of a senator shall be as follows:—

He must:—

(*a*) be not less than thirty years of age;

(*b*) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the Provinces;

(*c*) have resided for five years within the limits of the Union as existing at the time when he is elected or nominated as the case may be;

(*d*) be a British subject of European descent;

(*e*) in the case of an elected senator be the registered owner of immovable property within the Union of the value of not less than five hundred pounds over and above any special mortgages thereon.

26. The Senate shall, before proceeding to the dispatch of any other business, choose a senator to be the President of the Senate and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President. The President shall cease to hold office if he ceases to be a senator. He may be removed from office by a vote of the Senate or he may resign his office by writing addressed to the Governor-General.

27. Prior to or during any absence of the President the Senate may choose a senator to perform his duties in his absence.

28. A senator may, by writing under his hand, addressed to the Governor-General, resign his seat, which thereupon shall become vacant. The Governor-General shall as soon as practicable cause steps to be taken to have the vacancy filled.

29. The presence of at least twelve senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

30. All questions in the Senate shall be determined by a majority of votes of senators present other than the President or the presiding senator, who shall, however, have and exercise a casting vote in the case of an equality of votes.

House of Assembly.

31. The House of Assembly shall be composed of members directly chosen by the voters of the Union in electoral divisions delimited as hereinafter provided.

32. The number of members to be elected in the original Provinces at the first election and until the number is altered in accordance with the provisions of this Act shall be as follows:—

Cape of Good Hope	...	...	fifty-one
Natal	...	...	seventeen
Transvaal	...	...	thirty-six
Orange Free State	...	...	seventeen.

These numbers may be increased as provided in the next succeeding section but shall not in the case of any original Province be diminished until the total number of members of the House of Assembly in respect of the Provinces herein provided for reaches one hundred and fifty or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period.

33. The number of members to be elected in each Province as provided in section thirty-two shall be increase from time to time as may be necessary in accordance with the following provisions:

(i) The quota of the Union shall be obtained by dividing the total number of European male adults in the Union, not being members of His Majesty's regular forces on full pay, as ascertained at the census of 1904 by the total number of members of the House of Assembly as constituted at the establishment of the Union.

(ii) In 1911 and every five years thereafter a census of the European population of the Union shall be taken for the purposes of this Act.

(iii) After every such census the number of European male adults in each Province shall be compared with the number of European male adults as ascertained at the census of 1904 and in the case of any Province where an increase is shown, as compared with the census of 1904, equal to the quota of the Union or any multiple thereof, the number of members allotted to such Province in the last preceding section shall be increased by an additional member or an additional number of members equal to such multiple as the case may be.

(iv) Notwithstanding anything herein contained no additional member shall be allotted to any Province until the total number of European male adults in such Province exceeds the quota of the Union multiplied by the number of members allotted to such Province for the time being and thereupon additional members shall be allotted to such Province in respect only of such excess.

(v) As soon as the number of members of the House of Assembly to be elected in the original Provinces in accordance with the preceding sub-sections reaches the total of one hundred and fifty such total shall not be further increased unless and until Parliament otherwise provides; and subject to the provisions of the last preceding section the distribution of members among the Provinces shall be such that the pro-

portion between the number of members to be elected at any time in each Province and the number of European male adults in such Province as ascertained at the last preceding census shall as far as possible be identical throughout the Union.

(vi) "Male adults" in this Act shall be taken to mean males of twenty-one years of age or upwards.

(vii) For the purposes of this Act the number of European male adults, not being members of His Majesty's regular forces on full pay, as ascertained at the census of 1904 shall be taken to be:

For the Cape of Good Hope	167,546
For Natal	34,784
For the Transvaal	106,493
For the Orange Free State..... ...	41,014

34. If any of the Colonies does not become an original Province the number of members to which the House of Assembly may be increased shall be reduced by the number of members assigned to the corresponding Province in section thirty-two.

35. (i) Parliament may by law prescribe the qualifications which shall be necessary to entitle persons to vote at the election of members of the House of Assembly, but no such law shall disqualify any person in the Province of the Cape of Good Hope who under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union is or may become capable of being registered as a voter from being so registered by reason of his race or colour only, unless the bill be passed by both Houses of Parliament sitting together and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

(ii) No person who at the passing of any such law is registered as a voter in any Province shall be removed from the register by reason only of any disqualification based on race or colour.

36. Subject to the provisions of the last preceding section the qualifications of parliamentary voters as existing in the several Colonies at the establishment of the Union shall be the qualifications necessary to entitle persons in the corresponding Provinces to vote for the election of members of the House of Assembly: provided that no member of His Majesty's regular forces on full pay shall be entitled to be registered as a voter.

37. (i) Subject to the provisions of this Act, the laws in force in the Colonies at the establishment of the Union relating to elections for the more numerous Houses of Parliament in such Colonies respectively, the registration of voters, the oaths or declarations to be taken by voters, returning officers, the powers and duties of such officers, the proceedings at elections, the hearing of election petitions and the proceedings incident thereto, the vacating of seats of members and the pro-

ceedings necessary for filling such vacancies shall *mutatis mutandis* apply to the elections in the respective Provinces of members of the House of Assembly.

(ii) Notwithstanding anything to the contrary in any of the said laws contained, at any general election of members of the House of Assembly, all polls shall be taken on one and the same day in all the electoral divisions throughout the Union, such day to be appointed by the Governor-General-in-Council.

38. Between the date of the passing of this Act and the date fixed for the establishment of the Union the Governor-in-Council of each of the Colonies shall nominate a Judge of any of the Supreme or High Courts of the Colonies, and the Judges so nominated shall, upon acceptance by them respectively of such nomination, form a joint commission, without any further appointment, for the purpose of the first division of the Provinces into electoral divisions. The High Commissioner for South Africa shall forthwith convene a meeting of such commission at such time and place in one of the Colonies as he shall fix and determine. At such meeting the commissioners shall elect one of their number as chairman of such commission. They shall thereupon proceed with the discharge of their duties under this Act, and may appoint persons in any Province to assist them or to act as assessors to the commission or with individual members thereof for the purpose of inquiring into matters connected with the duties of the commission. All moneys required for the payment of the expenses of such commission before the establishment of the Union in any of the Colonies shall be provided by the Governor-in-Council of such Colony. In case of the death, resignation or other disability of any of the commissioners before the establishment of the Union the Governor-in-Council who nominated him shall forthwith nominate another Judge to fill the vacancy. After the establishment of the Union the expenses of the commission shall be defrayed by the Governor-General-in-Council and any vacancies shall be filled by him.

39. The commission shall divide each Province into electoral divisions, each returning three or more members: provided that in special cases of sparsely populated areas the commission may delimit divisions in which less than three members shall be returned.

40. (i) For the purpose of such division as is in the last preceding section mentioned the quota of each Province shall be obtained by dividing the total number of voters in the Province as ascertained at the last registration of voters by the number of members of the House of Assembly to be elected therein.

(ii) Each Province shall be divided into electoral divisions, so that the number of voters in each division shall subject to the provisions of sub-section (iii) be a multiple of the quota and the number of members to be elected therein shall be equal to such multiple.

(iii) The commissioners shall give due consideration to

(*a*) community or diversity of interests;
(*b*) means of communication;
(*c*) physical features;
(*d*) existing electoral boundaries;
(*e*) sparsity or density of population;

in such manner that while taking the quota of voters as the basis of division the commissioners may whenever they deem it necessary to depart therefrom but in no case to any greater extent than fifteen *per centum* more or fifteen *per centum* less than the quota.

41. As soon as may be after every quinquennial census the Governor-General-in-Council shall appoint a commission consisting of three Judges of the Supreme Court of South Africa to carry out any re-division which may have become necessary as between the different electoral divisions in each Province, and to provide for the allocation of the number of members to which such Province may have become entitled under the provisions of this Act. In carrying out such re-division and allocation the commission shall have the same powers and proceed upon the same principles as are by this Act provided in regard to the original division.

42. (i) The joint commission constituted under section thirty-eight and any subsequent commission appointed under the provisions of the last preceding section shall submit to the Governor-General-in-Council: —

(*a*) a list of electoral divisions, with the names given to them by the commission and a description of the boundaries of and the number of members assigned to every such division;

(*b*) a map or maps showing the electoral divisions into which the Provinces have been divided:

(*c*) such further particulars as they consider necessary.

(ii) The Governor-General-in-Council may refer to the commission for its consideration any matter relating to such list or arising out of the powers or duties of the commission.

(iii) The Governor-General-in-Council shall proclaim the names and boundaries of the electoral divisions and the number of members assigned to each division as finally settled and certified by the commission or a majority thereof, and thereafter until there shall be a re-division the electoral divisions as named and defined shall be the electoral divisions of the Union in the Provinces.

(iv) If any discrepancy shall arise between the description of the divisions and the aforesaid map or maps the description shall prevail.

43. Any alteration in the number of members of the House of Assembly to be elected in the several Provinces and any re-division of the Provinces into electoral divisions shall in respect of the election of members of the House of Assembly come into operation at the next general election held after the

completion of the redivision or of any allocation consequent upon such alteration and not earlier.

44. The qualifications of a member of the House of Assembly shall be as follows:—

He must:—

(*a*) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the Provinces;

(*b*) have resided for five years within the limits of the Union as existing at the time when he is elected;

(*c*) be a British subject of European descent.

45. Every House of Assembly shall continue for five years from the first meeting thereof and no longer, but may be sooner dissolved by the Governor-General.

46. The House of Assembly shall, before proceeding to the dispatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a member to be the Speaker. The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing addressed to the Governor-General.

47. Prior to or during the absence of the Speaker the House of Assembly may choose a member to perform his duties in his absence.

48. A member may by writing under his hand addressed to the Speaker or, if there is no Speaker or if the Speaker is absent from the Union, to the Governor-General resign his seat, which shall thereupon become vacant.

49. The presence of at least thirty members of the House of Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers.

50. All questions in the House of Assembly shall be determined by a majority of votes of members present other than the Speaker or the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

BOTH HOUSES OF PARLIAMENT.

51. Every senator and every member of the House of Assembly shall before taking his seat make and subscribe before the Governor-General or some person authorized by him an oath or affirmation of allegiance in the following form:—

Oath.

I, A.B., do swear that I will be faithful and bear true allegiance to His Majesty King Edward the Seventh his heirs and successors according to law. So help me God.

Affirmation.

I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to His Majesty King Edward the Seventh his heirs and successors according to law.

52. A member of either House of Parliament shall be incapable of being chosen or of sitting as a member of the other House: provided that every minister of state who is a member of either House of Parliament shall have the right to sit and speak in the Senate and the House of Assembly, but shall vote only in the House of which he is a member.

53. No person shall be capable of being chosen or of sitting as a senator or as a member of the House of Assembly who:

(*a*) has been at any time convicted of treason, murder or any offence for which he shall have been sentenced to imprisonment without the option of a fine for a term of not less than twelve months, unless he shall have received a free pardon or unless such imprisonment shall have expired at least five years before the date of his election; or

(*b*) is an unrehabilitated insolvent; or

(*c*) is of unsound mind, and has been so declared by a competent court; or

(*d*) holds any office of profit under the Crown within the Union: provided that the following persons shall not be deemed to hold an office of profit under the Crown for the purposes of this sub-section:

(1) a minister of state for the Union;

(2) a person in receipt of a pension from the Crown;

(3) an officer or member of His Majesty's naval or military forces on retired or half-pay or an officer or member of the naval or military forces of the Union whose services are not wholly employed by the Union.

54. If a senator or member of the House of Assembly

(*a*) becomes subject to any of the disabilities mentioned in the last preceding section; or

(*b*) ceases to be qualified as required by law; or

(*c*) fails for a whole ordinary session to attend without the special leave of the Senate or the House of Assembly, as the case may be;

his seat shall thereupon become vacant.

55. If any person who is by law incapable of sitting as a senator or member of the House of Assembly shall, while so disqualified and knowing or having reasonable grounds for knowing that he is so disqualified, sit or vote as a member of the Senate or the House of Assembly, he shall be liable to a penalty of one hundred pounds for each day on which he shall so sit or vote, to be recovered on behalf of the Treasury of the Union by action in any Superior Court of the Union.

56. Each senator and each member of the House of Assembly shall, under such rules as shall be framed by Parliament, receive an allowance of three hundred pounds a year to be reckoned from the date on which he takes his seat; provided that for every day of the session on which he is absent there shall be deducted from such allowance the sum of two pounds: provided further that no such allowance shall be paid to a minister receiving a salary under the Crown or to the President of the Senate or the Speaker of the House of

Assembly. A day of the session shall mean in respect of a member any day during a session on which the House of which he is a member or any committee of which he is a member meets.

57. The powers, privileges and immunities of the Senate and of the House of Assembly and of the members and committees of each House shall subject to the provisions of this Act be such as are declared by Parliament, and until declared shall be those of the House of Assembly of the Cape of Good Hope and of its members and committees at the establishment of the Union.

58. Each House of Parliament may make rules and orders with respect to the order and conduct of its business and proceedings. Until such rules and orders shall have been made the rules and orders of the Legislative Council and House of Assembly of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply to the Senate and House of Assembly respectively. If a joint sitting of both Houses of Parliament is required under the provisions of this Act it shall be convened by the Governor-General by message to both Houses. At any such joint sitting the Speaker of the House of Assembly shall preside and the rules of the House of Assembly shall as far as practicable apply.

POWERS OF PARLIAMENT.

59. Parliament shall have full power to make laws for the peace, order and good government of South Africa.

60. (i) Bills appropriating revenue or moneys or imposing taxation shall originate only in the House of Assembly. But a bill shall not be taken to appropriate revenue or moneys or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties.

(ii) The Senate may not amend any bills so far as they impose taxation or appropriate revenue or moneys for the services of the Government.

(iii) The Senate may not amend any bill so as to increase any proposed charges or burden on the people.

61. Any bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

62. The House of Assembly shall not originate or pass any vote resolution address or bill for the appropriation of any part of the public revenue or of any tax or impost to any purpose unless such appropriation has been recommended by message from the Governor-General during the session in which such vote resolution address or bill is proposed.

63. If the House of Assembly passes any bill and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree and if the House of Assembly in the next session again passes the bill with or without any amendments which have been made or agreed to by the Senate and the Senate rejects or fails to pass it or

passes it with amendments to which the House of Assembly will not agree, the Governor-General may during that session convene a joint sitting of the members of the Senate and House of Assembly. The members present at any such joint sitting may deliberate and shall vote together upon the bill as last proposed by the House of Assembly and upon amendments, if any, which have been made therein by one House of Parliament and not agreed to by the other; and any such amendments which are affirmed by a majority of the total number of members of the Senate and House of Assembly present at such sitting shall be taken to have been carried and, if the bill with the amendments, if any, is affirmed by a majority of the members of the Senate and House of Assembly present at such sitting, it shall be taken to have been duly passed by both Houses of Parliament. Provided that, if the Senate shall reject or fail to pass any bill dealing with the appropriation of revenue or moneys for the public service, such joint sitting may be convened during the same session in which the Senate so rejects or fails to pass such bill.

64. When a bill is presented to the Governor-General for the King's assent, he shall declare according to his discretion, but subject to the provisions of this Act, that he assents in the King's name, or that he withholds assent, or that he reserves the bill for the signification of the King's pleasure. The Governor-General may return to the House in which it originated any bill so presented to him and may transmit therewith any amendments which he may recommend and the House may deal with the recommendation.

65. The King may disallow any law within one year after it has been assented to by the Governor-General and such disallowance on being made known by the Governor-General by speech or message to each of the Houses of Parliament or by proclamation shall annul the law from the day when the disallowance is so made known.

66. A bill reserved for the King's pleasure shall not have any force unless and until within one year from the day on which it was presented to the Governor-General for the King's assent the Governor-General makes known by speech or message to each of the Houses of Parliament or by proclamation that it has received the King's assent.

67. As soon as may be after any law shall have been assented to in the King's name by the Governor-General or having been reserved for the King's pleasure shall have received his assent, the Clerk of the House of Assembly shall cause two fair copies of such law, one being in the English and the other in the Dutch language, one of which copies shall be signed by the Governor-General, to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of every such law, and in case of conflict between the two copies thus deposited that signed by the Governor-General shall prevail.

V. THE PROVINCES.

ADMINISTRATORS.

68. (i) In each Province there shall be a chief executive officer appointed by the Governor-General-in-Council who shall be styled the Administrator of the Province and in whose name all executive acts relating to provincial affairs therein shall be done.

(ii) In the appointment of the Administrator of any Province the Governor-General-in-Council shall as far as practicable give preference to persons resident in such Province.

(iii) Such Administrator shall hold office for a term of five years, and shall not be removed before the expiration thereof except by the Governor-General-in-Council for cause assigned which shall be communicated by message to both Houses of Parliament within one week after the removal if Parliament be then sitting or if Parliament be not sitting then within one week after the commencement of the next ensuing session.

(iv) The Governor-General-in-Council may from time to time appoint a Deputy Administrator to execute the office and functions of the Administrator during his absence illness or other inability.

69. The salaries of the Administrators shall be fixed and provided by Parliament and shall not be reduced during their respective terms of office.

PROVINCIAL COUNCILS.

70. There shall be a Provincial Council in each Province consisting of the same number of members as are elected in the Province for the House of Assembly: provided that in any Province whose representatives in the House of Assembly shall be less than twenty-five in number the Provincial Council shall consist of twenty-five members.

71. (i) The members of the Provincial Council shall be elected by the persons qualified to vote for the election of members of the House of Assembly in the Province voting in the same electoral divisions as are delimited for the election of members of the House of Assembly: provided that in any Province in which less than twenty-five members are elected to the House of Assembly the delimitation of the electoral divisions and any necessary re-allocation of members or adjustment of electoral divisions shall be effected by the same commission and on the same principles as are prescribed in regard to the electoral divisions for the House of Assembly.

(ii) Any alteration in the number of members of the Provincial Council and any redivision of the Province into electoral divisions shall come into operation at the next general election for such Council held after the completion of such redivision or of any allocation consequent upon such alteration and not earlier.

(iii) The elections shall take place at such times as the Administrator shall by proclamation direct and the provisions of

section thirty-seven applicable to the election of members of the House of Assembly shall *mutatis mutandis* apply to such elections.

72. The provisions of sections fifty-three, fifty-four and fifty-five relative to members of the House of Assembly shall *mutatis mutandis* apply to members of the Provincial Councils: provided that any member of a Provincial Council who shall become a member of either House of Parliament shall thereupon cease to be a member of such Provincial Council.

73. Each Provincial Council shall continue for three years from the date of its first meeting and shall not be subject to dissolution save by effluxion of time.

74. The Administrator of each Province shall by proclamation fix such times for holding the sessions of the Provincial Council as he may think fit and may from time to time prorogue such Council: provided that there shall be a session of every Provincial Council once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session.

75. The Provincial Council shall elect its own chairman and may make rules for the conduct of its proceedings. Such rules shall be transmitted by the Administrator to the Governor-General and shall have full force and effect unless and until the Governor-General-in-Council shall express his disapproval thereof by writing addressed to the Administrator.

76. The members of the Provincial Council shall receive such allowances as shall be determined by the Governor-General-in-Council.

77. There shall be freedom of speech in the Provincial Council, and no member shall be liable to any action or proceeding in any court by reason of his speech or vote in such Council.

Executive Committees.

78. (i) Each Provincial Council shall at its first meeting after any general election elect from among its members, or otherwise, such number of persons not being less than three or more than five as the Governor-General-in-Council may prescribe in respect of each Province to form with the Administrator who shall be chairman an Executive Committee for the Province. The members of the Executive Committee other than the Administrator shall hold office until the election of their successors in the same manner.

(ii) Such members shall receive such remuneration as the Provincial Council, with the approval of the Governor-General-in-Council, shall determine.

(iii) A member of the Provincial Council shall not be disqualified from sitting as a member by reason of his having been elected as a member of the Executive Committee.

(iv) Any casual vacancy arising in the Executive Committee shall be filled by election by the Provincial Council if then

in session or if the Council is not in session by a person appointed by the Executive Committee to hold office temporarily pending an election by the Council.

79. The Administrator and any other member of the Executive Committee of a Province not being a member of the Provincial Council shall have the right to take part in the proceedings of the Council but shall not have the right to vote.

80. The Executive Committee shall on behalf of the Provincial Council carry on the administration of provincial affairs. Until the first election of members to serve on the Executive Committee such administration shall be carried on by the Administrator. Whenever there are not sufficient members of the Executive Committee to form a quorum according to the rules of the Committee the Administrator shall, as soon as practicable, convene a meeting of the Provincial Council for the purpose of electing members to fill the vacancies and until such election the Administrator shall carry on the administration of provincial affairs.

81. Subject to the provisions of this Act all powers authorities and functions, which at the establishment of the Union are in any of the Colonies vested in or exercised by the Governor or the Governor-in-Council or any minister of the Colony, shall after such establishment be vested in the Executive Committee of the Province so far as such powers authorities and functions relate to matters in respect of which the Provincial Council is competent to make ordinances.

82. Questions arising in the Executive Committee shall be determined by a majority of votes of the members present and in case of an equality of votes the Administrator shall have also a casting vote. Subject to the approval of the Governor-General-in-Council the Executive Committee may make rules for the conduct of its proceedings.

83. Subject to the provisions of any law passed by Parliament regulating the conditions of appointment tenure of office retirement and superannuation of public officers the Executive Committee shall have power to appoint such officers as may be necessary in addition to officers assigned to the Province by the Governor-General-in-Council under the provisions of this Act to carry out the services entrusted to them and to make and enforce regulations for the organisation and discipline of such officers.

84. In regard to all matters in respect of which no powers are reserved or delegated to the Provincial Council the Administrator shall act on behalf of the Governor-General-in-Council when required to do so and in such matters the Administrator may act without reference to the other members of the Executive Committee.

Powers of Provincial Councils.

85. Subject to the provisions of this Act and the assent of the Governor-General-in-Council as hereinafter provided the

Provincial Council may make ordinances in relation to matters coming within the following classes of subjects, that is to say:—

(i) Direct taxation within the Province in order to raise a revenue for provincial purposes.

(ii) The borrowing of money on the sole credit of the Province with the consent of the Governor-General-in-Council and in accordance with regulations to be framed by Parliament.

(iii) Education, other than higher education, for a period of five years and thereafter until Parliament otherwise provides.

(iv) Agriculture to the extent and subject to the conditions to be defined by Parliament.

(v) The establishment, maintenance and management of hospitals and charitable institutions.

(vi) Municipal institutions, divisional councils and other local institutions of a similar nature.

(vii) Local works and undertakings within the Province, other than railways, harbours and such works as extend beyond the borders of the Province and subject to the power of Parliament to declare any work a national work and to provide for its construction by arrangement with the Provincial Council or otherwise.

(viii) Roads, outspans, ponts and bridges, other than bridges connecting two Provinces.

(ix) Markets and pounds.

(x) Fish and game preservation.

(xi) The imposition of punishment by fine, penalty or imprisonment for enforcing any law or any ordinance of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

(xii) Generally all matters which in the opinion of the Governor-General-in-Council are of a merely local or private nature in the Province.

(xiii) All other subjects in respect of which Parliament shall delegate the power of making ordinances to the Provincial Council.

86. Any ordinance made by a Provincial Council shall have effect in and for the Province as long and as far only as it is not repugnant to any act of Parliament.

87. A Provincial Council may recommend to Parliament the passing of any law relating to any matter in respect of which such Council is not competent to make ordinances.

88. In regard to any matter which requires to be dealt with by means of a private act of Parliament the Provincial Council of the Province to which the matter relates may, subject to such procedure as shall be laid down by Parliament, take evidence by means of a select committee or otherwise for and against the passing of such law and upon receipt of a report from such Council together with the evidence upon which it

is founded Parliament may pass such act without further evidence being taken in support thereof.

89. A Provincial Revenue Fund shall be formed in every Province, into which shall be paid all revenues raised by or accruing to the Provincial Council and all moneys paid over by the Governor-General-in-Council to the Provincial Council. Such fund shall be appropriated by the Provincial Council by ordinance for the purposes of the provincial administration generally, or, in the case of moneys paid over by the Governor-General-in-Council for particular purposes, then for such purposes, but no such ordinance shall be passed by the Provincial Council unless the Administrator shall have first recommended to the Council to make provision for the specific service for which the appropriation is to be made. No money shall be issued from the Provincial Revenue Fund except in accordance with such appropriation and under warrant signed by the Administrator: provided that until the expiration of one month after the first meeting of the Provincial Council the Administrator may expend such moneys as may be necessary for the services of the Province.

90. When a proposed ordinance has been passed by a Provincial Council it shall be presented by the Administrator to the Governor-General-in-Council for his assent. The Governor-General-in-Council shall declare within one month from the presentation to him of the proposed ordinance that he assents thereto, or that he withholds assent or that he reserves the proposed ordinance for further consideration. A proposed ordinance so reserved shall not have any force unless and until within one year from the day on which it was presented to the Governor-General-in-Council he makes known by proclamation that it has received his assent.

91. An ordinance assented to by the Governor-General-in-Council and promulgated by the Administrator shall, subject to the provisions of this Act, have the force of law within the Province. The Administrator shall cause two fair copies of every such ordinance, one being in the English and the other in the Dutch language, one of which copies shall be signed by the Governor-General, to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of such ordinance, and in case of conflict between the two copies thus deposited that signed by the Governor-General shall prevail.

MISCELLANEOUS.

92. (i) In each Province there shall be an Auditor of Accounts, to be appointed by the Governor-General-in-Council.

(ii) No such Auditor shall be removed from office except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be

then sitting, and, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(iii) Each such Auditor shall receive out of the Consolidated Revenue Fund such salary as the Governor-General-in-Council with the approval of Parliament shall determine.

(iv) Each such Auditor shall examine and audit the accounts of the Province to which he is assigned, subject to such regulations and orders as may be framed by the Governor-General-in-Council and approved by Parliament, and no warrant signed by the Administrator authorising the issue of money shall have effect unless countersigned by such Auditor.

93. Notwithstanding anything in this Act contained all powers, authorities and functions lawfully exercised at the establishment of the Union by divisional or municipal councils or any other duly constituted local authority shall be and remain in force until varied or withdrawn by Parliament or by a Provincial Council having power in that behalf.

94. The seats of provincial government shall be:

for Cape of Good Hope	Cape Town.
for Natal	Pietermaritzburg.
for Transvaal	Pretoria.
for Orange Free State	Bloemfontein.

VI. THE SUPREME COURT OF SOUTH AFRICA.

95. There shall be a Supreme Court of South Africa, consisting of a Chief Justice of South Africa, the Ordinary Judges of Appeal and the Chief Justices and other Judges of the several divisions of the Supreme Court of South Africa in the Provinces.

96. There shall be an Appellate Division of the Supreme Court of South Africa, consisting of the Chief Justice of South Africa, two Ordinary Judges of Appeal and two additional Judges of Appeal. Such additional Judges of Appeal shall from time to time be temporarily assigned by the Governor-General-in-Council to the Appellate Division from any of the Provincial Divisions of the Supreme Court of South Africa, but shall continue to perform their duties as Judges of their respective Divisions when their attendance is not required in the Appellate Division.

97. The Governor-General-in-Council during the absence, illness or other incapacity of the Chief Justice of South Africa or of any ordinary Judge of Appeal may appoint any Judge of the Supreme Court of South Africa to act temporarily as Chief Justice or Ordinary Judge of Appeal.

98. (i) The several Supreme Courts of the Cape of Good Hope, Natal and the Transvaal and the High Court of the Orange River Colony shall on the establishment of the Union become Provincial Divisions of the Supreme Court of South Africa within their respective Provinces.

(ii) The Court of the Eastern Districts of the Cape of Good Hope, the High Court of Griqualand, the High Court of Witwatersrand and the several Circuit Courts shall become Local

Divisions of the Supreme Court of South Africa within the respective areas of their jurisdiction as existing at the establishment of the Union.

(iii) The said Provincial and Local Divisions, referred to in this Act as Superior Courts, shall, in addition to any original jurisdiction exercised by the corresponding courts of the Colonies at the establishment of the Union, have jurisdiction in all matters

(*a*) in which the Government of the Union or a person suing or being sued on behalf of such Government is a party;

(*b*) in which the validity of any provincial ordinance shall come into question.

(iv) Unless and until Parliament shall otherwise provide, the said Superior Courts shall *mutatis mutandis* have the same jurisdiction in matters affecting the validity of elections of members of the House of Assembly and Provincial Councils as the corresponding courts of the Colonies have at the establishment of the Union in regard to parliamentary elections in such Colonies respectively.

99. All Judges of the Supreme Courts of the Colonies, including the High Court of the Orange River Colony, holding office at the establishment of the Union shall on such establishment become Judges of the Supreme Court of South Africa, assigned to the divisions of the Supreme Court in the respective Provinces, and shall retain all such rights in regard to salaries and pensions as they may possess at the establishment of the Union.

100. The Chief Justice of South Africa, the Ordinary Judges of Appeal and all other Judges of the Supreme Court of South Africa to be appointed after the establishment of the Union shall be appointed by the Governor-General-in-Council, and shall receive such remuneration as Parliament shall prescribe and their remuneration shall not be diminished during their continuance in office.

101. The Chief Justice of South Africa and other Judges of the Supreme Court of South Africa shall not be removed from office except by the Governor-General-in-Council, on an address from both Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity.

102. Upon any vacancy occurring in any division of the Supreme Court of South Africa other than the Appellate Division the Governor-General-in-Council may, in case he shall consider that the number of Judges of such court may with advantage to the public interest be reduced, postpone filling the vacancy until Parliament shall have determined whether such reduction shall take place.

103. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made to the Supreme Court of any of the Colonies or to the High Court of the Orange River Colony from a superior court in any of the Colonies or from the High Court of Southern

Rhodesia, the appeal shall be made only to the Appellate Division of the Supreme Court of South Africa.

104. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from the Supreme Court of any of the Colonies or from the High Court of the Orange River Colony to the King-in-Council, the appeal shall be made only to the Appellate Division of the Supreme Court of South Africa: provided that the right of appeal in any civil suit shall not be limited by reason only of the value of the matter in dispute or the amount claimed or awarded in such suit.

105. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from a court of Resident Magistrate or other inferior court to a superior court in any of the Colonies, the appeal shall be made to the corresponding division of the Supreme Court of South Africa; but there shall be no further appeal against any judgment given on appeal by such division except to the Appellate Division of the Supreme Court of South Africa, and then only if the Appellate Division shall have given special leave to appeal.

106. There shall be no appeal from the Supreme Court of South Africa or from any division thereof to the King-in-Council, but nothing herein contained shall be construed to impair any right which the King-in-Council may be pleased to exercise to grant special leave to appeal from the Appellate Division to the King-in-Council. Parliament may make laws limiting the matters in respect of which such special leave may be asked, but bills containing any such limitation shall be reserved by the Governor-General for the signification of His Majesty's pleasure.

107. The Chief Justice of South Africa and the Ordinary Judges of Appeal may, subject to the approval of the Governor-General-in-Council, make rules for the conduct of the proceedings of the Appellate Division of the Supreme Court of South Africa, and prescribing the time and manner of making appeals thereto. Until such rules shall have been promulgated the rules in force in the Supreme Court of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply.

108. The Judges of every Provincial Division of the Supreme Court of South Africa may frame rules for the conduct of the proceedings of such division and such rules shall be subject to the approval of the Governor-General-in-Council in consultation with the Chief Justice of South Africa. Until such rules shall have been promulgated the rules in force at the establishment of the Union in the respective courts which become divisions of the Supreme Court of South Africa shall continue to apply therein.

109. The Appellate Division of the Supreme Court of South Africa shall sit in Bloemfontein, but may from time to time

for the convenience of suitors hold its sittings at other places within the Union.

110. On the hearing of appeals from a court consisting of two or more Judges five Judges of the Appellate Division shall form a quorum, but on the hearing of appeals from a single Judge three Judges of the Appellate Division shall form a quorum. No Judge shall take part in the hearing of any appeal against the judgment given in a case heard before him.

111. The process of the Appellate Division shall run throughout the Union and all its judgments or orders shall have full force and effect in every Province, and shall be executed in like manner as if they were original judgments or orders of the Provincial Division of the Supreme Court of South Africa in such Province.

112. The Registrar of every Provincial Division of the Supreme Court of South Africa if thereto requested by any party in whose favour any judgment or order has been given or made by any other division shall, upon the deposit with him of an authenticated copy of such judgment or order and on proof that the same remains unsatisfied, issue a writ or other process for the execution of such judgment or order, and thereupon such writ or other process shall be executed in like manner as if it had been originally issued from the division of which he is Registrar.

113. Any Provincial Division of the Supreme Court of South Africa to which it may be made to appear that any civil suit depending therein may be more conveniently or fitly heard or determined in another division may order the same to be removed to such other division, and thereupon such last-mentioned division may proceed with such suit in like manner as if it had been originally commenced therein.

114. The Governor-General-in-Council may appoint a Registrar of the Appellate Division of the Supreme Court of South Africa, and such other officers thereof as shall in the opinion of the Chief Justice of South Africa be required for the proper dispatch of the business thereof.

115. (i) The laws regulating the admission of advocates and attorneys to practise before any superior court of any of the Colonies shall *mutatis mutandis* apply to the admission of advocates and attorneys to practise in the corresponding division of the Supreme Court of South Africa.

(ii) All advocates and attorneys entitled at the establishment of the Union to practise in any superior court of any of the Colonies shall be entitled to practise as such in the corresponding division of the Supreme Court of South Africa.

(iii) All advocates and attorneys entitled to practise before any Provincial Division of the Supreme Court of South Africa shall be entitled to practise before the Appellate Division.

116. All suits, civil or criminal, pending in any superior court of any of the Colonies at the establishment of the Union

shall stand removed to the corresponding division of the Supreme Court of South Africa which shall have jurisdiction to hear and determine the same and all judgments and orders of any superior court of any of the Colonies given or made before the establishment of the Union shall have the same force and effect as if they had been given or made by the corresponding division of the Supreme Court of South Africa.

VII. FINANCE AND RAILWAYS.

117. All revenues, from whatever source arising, over which the several Colonies have at the establishment of the Union power of appropriation shall vest in the Governor-General-in-Council. There shall be formed a Railway and Harbour Fund into which shall be paid all revenues raised or received by the Governor-General-in-Council from the administration of the railways ports and harbours and such fund shall be appropriated by Parliament to the purposes of the railways ports and harbours in the manner prescribed by this Act.

There shall also be formed a Consolidated Revenue Fund into which shall be paid all other revenues raised or received by the Governor-General-in-Council and such fund shall be appropriated by Parliament for the purposes of the Union in the manner prescribed by this Act and subject to the charges imposed thereby.

118. The Governor-General-in-Council shall as soon as may be after the establishment of the Union appoint a commission, consisting of one representative from each Province and presided over by an officer from the Imperial Service, to institute an inquiry into the financial relations which should exist between the Union and the Provinces. Pending the completion of that inquiry and until Parliament otherwise provides there shall be paid annually out of the Consolidated Revenue Fund to the Administrator of each Province:

(*a*) an amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year 1908-9 as voted by the Legislature of the corresponding Colony during the year 1908;

(*b*) such further sums as the Governor-General-in-Council may consider necessary for the due performance of the services and duties assigned to the Provinces respectively.

Until such inquiry shall be completed and Parliament shall have made other provision the Executive Committees in the several Provinces shall annually submit estimates of their expenditure for the approval of the Governor-General-in-Council, and no expenditure shall be incurred by any Executive Committee which is not provided for in such approved estimates.

119. The Consolidated Revenue Fund shall be permanently charged with the costs, charges and expenses incident to the collection management and receipt thereof and the same shall form the first charge thereon.

120. The annual interest of the public debts of the Colonies and any sinking funds constituted by law at the establishment of the Union shall form the second charge on the Consolidated Revenue Fund.

121. Subject to the several payments by this Act charged on the Consolidated Revenue Fund the same shall be appropriated by Parliament for the public service.

122. No money shall be withdrawn from the Consolidated Revenue Fund or the Railway and Harbour Fund except under appropriation made by law. But until the expiration of two months after the first meeting of Parliament the Governor-General-in-Council may draw therefrom and expend such moneys as may be necessary for the public service and for railway and harbour administration respectively.

123. All stocks, cash, bankers' balances and securities for money belonging to each of the Colonies at the establishment of the Union shall be the property of the Union: provided that the balances of any funds raised at the date of the Union by law for any special purposes in any of the Colonies shall be deemed to have been appropriated by Parliament for the special purposes for which they have been provided.

124. Crown lands public works and all property throughout the Union, movable or immovable, and all rights of whatever description belonging to the several Colonies at the establishment of the Union shall vest in the Governor-General-in-Council subject to any debt or liability specifically charged thereon.

125. All rights in and to mines and minerals and all rights in connection with the searching for working for or disposing of minerals or precious stones which at the establishment of the Union are vested in the Government of any of the Colonies shall on such establishment vest in the Governor-General-in-Council.

126. The Union shall assume all debts and liabilities of the Colonies existing at the establishment of the Union subject to the conditions imposed by any law under which such debts or liabilities were raised or incurred and may convert renew or consolidate such debts.

127. All ports harbours and railways belonging to the several Colonies at the establishment of the Union shall from the date thereof vest in the Governor-General-in-Council. No railway for the conveyance of public traffic and no port harbour or similar work shall be constructed without the sanction of Parliament.

128. Subject to the authority of the Governor-General-in-Council the control and management of the railways ports and harbours of the Union shall be exercised through a Board consisting of not more than three commissioners, who shall be appointed by the Governor-General-in-Council, and a minister of state who shall be chairman. Each commissioner shall hold office for a period of five years but may be re-appointed. He shall not be removed before the expiration

of his period of appointment except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal if Parliament be then sitting or if Parliament be not sitting then within one week after the commencement of the next ensuing session. The salaries of the commissioners shall be fixed by Parliament and shall not be reduced during their respective terms of office.

129. The railways, ports and harbours of the Union shall be administered on business principles due regard being had to agricultural and industrial development within the Union and the promotion, by means of cheap transport, of the settlement of an agricultural and industrial population in the inland portions of the Union. So far as may be the total earnings shall be not more than are sufficient to meet the necessary outlays for working maintenance betterment depreciation and the payment of interest due on capital not being capital contributed out of railway or harbour revenue, and not including any sums payable out of the Consolidated Revenue Fund in accordance with the provisions of sections one hundred and thirty-two and one hundred and thirty-three. The amount of interest due on such capital invested shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund. The Governor-General-in-Council shall give effect to the provisions of this section within four years after the establishment of the Union.

130. The Board may establish a fund out of railway and harbour revenue to be used for maintaining as far as may be uniformity of rates notwithstanding fluctuations in traffic.

131. All balances standing to the credit of any fund established in any of the Colonies for railway or harbour purposes at the establishment of the Union shall be under the sole control and management of the Board and shall be deemed to have been appropriated by Parliament for the respective purposes for which they have been provided.

132. Every proposal for the construction of any port or harbour works or of any line of railway before being submitted to Parliament shall be considered by the Board, which shall report thereon and shall advise whether the proposed works or line of railway should or should not be constructed. If any such works or line shall be constructed contrary to the advice of the Board, and if the Board is of opinion that the revenue derived from the operation of such works or line will be insufficient to meet the costs of working and maintenance and of interest on the capital invested therein, it shall frame an estimate of the annual loss which in its opinion will result from such operation. Such estimate shall be examined by the Controller and Auditor-General, and when approved by him the amount thereof shall be paid over annually from the Consolidated Revenue Fund to the Railway and Harbour Fund: provided that if in any year the actual loss incurred as calculated by the Board and certified to by the Controller and

Auditor-General is less than the estimate framed by the Board the amount paid over in respect of that year shall be reduced accordingly so as not to exceed the actual loss incurred. In calculating the loss arising from the operation of any such work or line the Board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

133. If the Board shall be required by the Governor-General-in-Council or under any act of Parliament or resolution of both Houses of Parliament to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities, the Board shall at the end of each financial year present to Parliament an account approved by the Controller and Auditor-General showing as nearly as can be ascertained the amount of the loss incurred by reason of the provision of such services and facilities and such amount shall be paid out of the Consolidated Revenue Fund to the Railway and Harbour Fund.

134. The Governor-General-in-Council shall appoint a Controller and Auditor-General who shall hold office during good behaviour: provided that he shall be removed by the Governor-General-in-Council on an address praying for such removal presented to the Governor-General by both Houses of Parliament: provided further that when Parliament is not in session the Governor-General-in-Council may suspend such officer on the ground of incompetence or misbehaviour; and when and so often as such suspension shall take place a full statement of the circumstances shall be laid before both Houses of Parliament within fourteen days after the commencement of its next session; and if an address shall at any time during the session of Parliament be presented to the Governor-General by both Houses praying for the restoration to office of such officer he shall be restored accordingly; and if no such address be presented the Governor-General shall confirm such suspension and shall declare the office of Controller and Auditor-General to be and it shall thereupon become vacant. Until Parliament shall otherwise provide the Controller and Auditor-General shall exercise such powers and functions and undertake such duties as may be assigned to him by the Governor-General-in-Council by regulations framed in that behalf.

135. In order to compensate Pietermaritzburg and Bloemfontein for any loss sustained by them in the form of diminution of prosperity or decreased rateable value by reason of their ceasing to be the seats of government of their respective Colonies there shall be paid from the Consolidated Revenue Fund for a period not exceeding twenty-five years to the municipal councils of such towns a grant of two *per centum per annum* on their municipal debts as existing on the 31st January, 1909, and as ascertained by the Controller and Auditor-General. The Commission appointed under section

one hundred and eighteen shall, after due inquiry, report to the Governor-General-in-Council what compensation should be paid to the municipal councils of Cape Town and Pretoria for the losses, if any, similarly sustained by them. Such compensation shall be paid out of the Consolidated Revenue Fund for a period not exceeding twenty-five years, and shall not exceed one *per centum per annum* on the respective municipal debts of such towns as existing on the 31st January, 1909, and as ascertained by the Controller and Auditor-General. For the purposes of this section Cape Town shall be deemed to include the municipalities of Cape Town Green Point and Sea Point Woodstock Mowbray Rondebosch Claremont and Wynberg and any grant made to Cape Town shall be payable to the Councils of such municipalities in proportion to their respective debts. One half of any such grants shall be applied to the redemption of the municipal debts of such towns respectively. At any time after the tenth annual grant has been paid to any of such towns the Governor-General-in-Council with the approval of Parliament may after due inquiry withdraw or reduce the grant to such town.

VIII. GENERAL.

136. The election of senators and of members of the House of Assembly the Provincial Councils and the Executive Committees of the Provincial Councils as provided in this Act shall, whenever such election is contested, be according to the principle of proportional representation each voter having one transferable vote. The Governor-General-in-Council or in the case of the first election of the Senate the Governor-in-Council of each of the Colonies shall frame regulations prescribing the method of voting and of transferring and counting votes and the duties of returning officers in connection therewith and such regulations or any amendments thereof after being duly promulgated shall have full force and effect unless and until Parliament shall otherwise provide.

137. Subject to the provisions of this Act all laws in force in the several Colonies at the establishment of the Union shall continue in force in the respective Provinces until repealed or amended by Parliament or by the Provincial Councils in matters in respect of which the power to make ordinances is reserved or delegated to them. All legal commissions in the several Colonies at the establishment of the Union shall continue as if the Union had not been established.

138. Both the English and Dutch languages shall be official languages of the Union and shall be treated on a footing of equality and possess and enjoy equal freedom rights and privileges; all records journals and proceedings of Parliament shall be kept in both languages and all bills acts and notices of general public importance or interest issued by the Government of the Union shall be in both languages.

139. All persons of European descent who have been naturalised in any of the Colonies shall be deemed to be naturalised throughout the Union.

140. The administration of justice throughout the Union shall be under the control of a minister of state in whom shall be vested all powers authorities and functions which shall at the establishment of the Union be vested in the Attorneys-General of the Colonies, save and except all powers authorities and functions relating to the prosecution of crimes and offences, which shall in each Province be vested in an officer to be appointed by the Governor-General-in-Council and styled the Attorney-General of the Province, who shall also discharge such other duties as may be assigned to him by the Governor-General-in-Council.

141. Subject to the provisions of the next succeeding section all officers of the public service of the Colonies shall at the establishment of the Union become officers of the Union.

142. (i) As soon as possible after the establishment of the Union the Governor-General-in-Council shall appoint a public service commission to make recommendations for such re-organisation and re-adjustment of the departments of the public service as may be necessary. The commission shall also make recommendations in regard to the assignment of officers to the several Provinces.

(ii) The Governor-General-in-Council may after such commission has reported assign from time to time to each Province such officers as may be necessary for the proper discharge of the services reserved or delegated to it and such officers on being so assigned shall become officers of the Province. Pending the assignment of such officers the Governor-General-in-Council may place at the disposal of the Provinces the services of such officers of the Union as may be necessary.

(iii) The provisions of this section shall not apply to any service or department under the control of the Railway and Harbour Board or to any person holding office under the Board.

143. After the establishment of the Union the Governor-General-in-Council shall appoint a permanent public service commission with such powers and duties relating to the appointment discipline retirement and superannuation of public officers as Parliament shall determine.

144. Any officer of the public service of any of the Colonies at the establishment of the Union who is not retained in the service of the Union or assigned to that of a Province shall be entitled to receive such pension gratuity or other compensation as he would have received in like circumstances if the Union had not been established.

145. Any officer of the public service of any of the Colonies at the establishment of the Union who is retained in the service of the Union or assigned to that of a Province shall retain all his existing and accruing rights and shall be entitled to retire from the service at the time at and on the pension or retiring allowance to which he would have been entitled by law in like circumstances if the Union had not been established.

146. The services of officers in the public service of any of the Colonies at the establishment of the Union shall not be dispensed with by reason of their want of knowledge of either the English or Dutch language.

147. Any permanent officer of the Legislature of any of the Colonies who is not retained in the service of the Union or assigned to that of any Province and for whom no provision shall have been made by such Legislature shall be entitled to such pension gratuity or compensation as Parliament may determine.

148. The control and administration of native affairs throughout the Union shall vest in the Governor-General-in-Council, who shall exercise all special powers in regard to native administration hitherto vested in the Governors of the Colonies or exercised by them as supreme chiefs.

149. All rights and obligations under any conventions or agreements which are binding on any of the Colonies shall devolve upon the Union at its establishment.

IX. NEW PROVINCES AND TERRITORIES.

150. Parliament may alter the boundaries of any Province divide a Province into two or more Provinces or form a new Province out of Provinces or Territories within the Union on the petition of the Provincial Council of every Province whose boundaries are affected thereby.

151. The King with the advice of the Privy Council may on addresses from the Houses of Parliament of the Union admit into the Union Colonies not originally included therein and Territories including the Territories administered by the British South Africa Company on such terms and conditions as to representation and otherwise in each case as are expressed in the addresses and approved by the King and the provisions of any Order-in-Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

152. The King with the advice of the Privy Council may on addresses from the Houses of Parliament of the Union transfer to the Union the government of any Territories, other than the Territories administered by the British South Africa Company, belonging to or under the protectorate of His Majesty and inhabited wholly or in part by natives and upon such transfer the Governor-General-in-Council may undertake the government of such Territory upon the terms and conditions embodied in the schedule to this Act.

X. AMENDMENT OF THIS ACT.

153. Parliament may by law repeal or alter any of the provisions of this Act: provided that no provision thereof, for the operation of which a definite period of time is prescribed, shall during such period be repealed or altered: and provided further that no repeal or alteration of the provisions contained in this section or in sections thirty-two and thirty-three (until

the number of members of the House of Assembly has reached the limit therein prescribed or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period) or in sections thirty-five and one hundred and thirty-eight, shall be valid unless the bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

SCHEDULE.

1. After the transfer of the government of any Territory belonging to or under the protectorate of His Majesty the Governor-General-in-Council shall be the legislative authority and may by proclamation make laws for the peace order and good government of such Territory: provided that all such laws shall be laid before both Houses of Parliament within seven days after the issue of the proclamation or, if Parliament be not then sitting, within seven days after the beginning of the next session, and shall be effectual unless and until both Houses of Parliament shall by resolution request the Governor-General-in-Council to repeal the same, in which case they shall be repealed by proclamation.

2. The Prime Minister shall be charged with the administration of any Territory thus transferred, and he shall be advised in such administration by a commission consisting of not fewer than three members with a secretary to be appointed by the Governor-General-in-Council.

3. The members of the commission shall be appointed by the Governor-General-in-Council and shall be entitled to hold office for a period of ten years, but such period may be extended to successive further terms of five years. They shall each be entitled to a fixed annual salary which shall not be reduced during the continuance of their term of office and they shall not be removed from office except upon addresses from both Houses of Parliament. They shall not be eligible to become members of either House of Parliament. One of the members of the commission shall be appointed by the Governor-General-in-Council as vice-chairman thereof. In case of the absence illness or other incapacity of any member of the commission the Governor-General-in-Council may appoint some other fit and proper person to act during such absence illness or other incapacity.

4. It shall be the duty of the members of the commission to advise the Prime Minister upon all matters relating to the administration of or the legislation for the said Territories. The Prime Minister or another minister of state as his deputy or, failing them, the vice-chairman shall preside at all meetings of the commission and in case of an equality of votes shall have a casting vote. Two members of the commission

shall with the Prime Minister or his deputy form a quorum. In case the commission shall consist of four or more members three of them with the Prime Minister or his deputy shall form a quorum.

5. Any member of the commission who dissents from the decision of a majority shall be entitled to have the reasons for his dissent recorded in the minutes of the commission.

6. The members of the commission shall have access to all official papers concerning the Territories and they may deliberate on any matter relating thereto and tender their advice thereon to the Prime Minister.

7. Before coming to a decision on any matter relating either to the administration, other than routine, of the Territories or to legislation therefor, the Prime Minister shall cause the papers relating to such matter to be deposited with the secretary to the commission and shall convene a meeting of the commission for the purpose of obtaining its opinion on such matter.

8. Where it appears to the Prime Minister that the dispatch of any communication or the making of any order is urgently required, the communication may be sent or order made, although it has not been submitted to a meeting of the commission or deposited for the perusal of the members thereof. In any such case the Prime Minister shall record the reasons for sending the communication or making the order and give notice thereof to every member.

9. If the Prime Minister does not accept a recommendation of the commission or proposes to take some action contrary to their advice he shall state his views to the commission who shall be at liberty to place on record the reasons in support of their recommendation or advice. This record shall be laid by the Prime Minister before the Governor-General-in-Council, whose decision in the matter shall be final.

10. When the recommendations of the commission have not been accepted by the Governor-General-in-Council or action not in accordance with their advice has been taken by the Governor-General-in-Council, the Prime Minister, if thereto requested by the commission, shall lay the record of their dissent from the decision or action taken and of the reasons therefor before both Houses of Parliament, unless in any case the Governor-General-in-Council shall be of opinion that the publication of such record and reasons would be gravely detrimental to the public interest.

11. The Governor-General-in-Council shall appoint a Resident Commissioner for each Territory, who shall, in addition to such other duties as shall be imposed on him by the Governor-General-in-Council, prepare the annual estimates of revenue and expenditure for such Territory and forward the same to the Prime Minister. After such estimates have been submitted to the commission and approved of or amended by the Prime Minister, the Resident Commissioner shall, subject to regulations to be framed in that behalf by the Gov-

ernor-General-in-Council, act in accordance with such estimates.

12. There shall be paid into the Treasury of the Union all duties of customs levied on dutiable articles imported into and consumed in the Territories, and there shall be paid out of the Treasury annually towards the cost of administration of each Territory a sum in respect of such duties which shall bear to the total customs revenue of the Union in respect of each financial year the same proportion as the average amount of the customs revenue of such Territory for the three completed financial years last preceding the taking effect of this Act bore to the average amount of the whole customs revenue for all the Colonies and Territories included in the Union received during the same period.

13. In case the revenue of any Territory for any financial year shall be insufficient to meet the expenditure, any amount required to make good the deficiency shall be advanced by the Government of the Union. In case there shall be a surplus for any Territory such surplus shall in the first instance be devoted to the repayment of any sums previously advanced by the Union Government to make good any deficiency in such Territory and thereafter it shall be lawful for the Governor-General-in-Council to lend the whole or any part of such surplus to another Territory.

14. It shall not be lawful to alienate any land in Basutoland or any land forming part of the native reserves in the Bechuanaland Protectorate and Swaziland from the native tribes inhabiting those Territories.

15. The sale of liquor to natives shall be prohibited in the Territories.

16. The custom, where it exists, of holding pitsos or other recognised forms of native assembly shall be maintained in the Territories.

17. No differential duties or imposts on the produce of the Territories shall be levied. The laws of the Union relating to customs and excise shall be made to apply to the Territories.

18. There shall be free intercourse for the black and white inhabitants of the Territories with the rest of South Africa subject to the laws, including the pass laws, of the Union.

19. Subject to the provisions of this schedule all revenues derived from any Territory shall be expended for and on behalf of such Territory: provided that the Governor-General-in-Council may make special provision for the appropriation of a portion of such revenue as a contribution towards the cost of defence and other services performed by the Union for the benefit of the whole of South Africa.

20. The King may disallow any law made by the Governor-General-in-Council by proclamation for any Territory within one year from the date of the proclamation, and such disallowance on being made known by the Governor-General by

proclamation shall annul the law from the day when the disallowance is so made known.

21. The members of the commission shall be entitled to such pensions or superannuation allowances as the Governor-General-in-Council shall by proclamation provide, and the salaries and pensions of such members and all other expenses of the commission shall be borne by the Territories in the proportion of their respective revenues.

22. The rights as existing on the 16th December, 1908, of civil servants employed in any Territory shall remain in force.

23. Where any appeal may by law be made to the King-in-Council from any Court of the Territories such appeal shall subject to the provisions of this Act be made to the Appellate Division of the Supreme Court of South Africa.

24. The Governor-General-in-Council shall prepare an annual report on the Territories and lay the same before both Houses of Parliament.

25. All bills to amend or alter the provisions of this schedule shall be reserved for the signification of His Majesty's pleasure.

CAPE OF GOOD HOPE :—

J. H. DE VILLIERS, President.
JOHN X. MERRIMAN.
J. W. SAUER.
F. S. MALAN.
L. S. JAMESON.
T. W. SMARTT.
E. H. WALTON.
W. E. M. STANFORD.
J. W. JAGGER.
H. C. VAN HEERDEN.
G. H. MAASDORP.
J. H. M. BECK.

NATAL :—

F. R. MOOR.
E. M. GREENE.
T. HYSLOP.
C. J. SMYTHE.
T. WATT.

TRANSVAAL :—

LOUIS BOTHA.
J. C. SMUTS.
H. C. HULL.
G. H. FARRAR.
J. P. FITZPATRICK.
H. L. LINDSAY.
S. W. BURGER.
J. H. DE LA REY.

ORANGE RIVER COLONY :—

A. FISCHER.
M. T. STEYN, Vice-President.
J. B. M. HERTZOG.
C. R. DE WET.
A. BROWNE.

RHODESIA :—

W. H. MILTON.
L. L. MICHELL.
C. P. J. COGHLAN.

Convention Chambers,
Houses of Parliament, Cape Town,
3rd February, 1909.

[G]

RESOLUTIONS AND AMENDMENTS TO DRAFT ACT ADOPTED BY THE VARIOUS PARLIAMENTS DURING THE SESSIONS HELD IN APRIL, 1909.

CAPE OF GOOD HOPE.

This House approves of the Draft South Africa Act agreed to by the South African National Convention at Cape Town, on the 3rd February, 1909, subject to the following :—

i. That with regard to the proviso in section thirty-nine :

(*a*) The delimitation of divisions in which less than three members shall be returned be obligatory in all cases of sparsely populated areas;

(*b*) The term "sparsely populated areas" be clearly defined;

ii. That the meaning and intent of the Draft Act in regard to the cases in which the quota of voters may be departed from in the delimitation of electoral divisions referred to in paragraph (*c*) of sub-section (iii) of section forty be more clearly expressed so as to ensure that the departure from the quota shall not be in the discretion of the Commissioners, but shall be made in accordance with the considerations set forth in section forty, sub-section (iii) (*a*), (*b*), (*c*), (*d*) and (*e*), so that in sparsely populated areas as nearly as possible fifteen per cent. less voters than the quota and in densely populated areas as nearly as possible fifteen per cent. more voters than the quota shall be entitled to a member, and that areas not falling within either of the above descriptions be dealt with on a sliding scale of departure from the quota made in accordance with the above consideration and within the limit of percentage referred to, and that the terms "sparsity or density of population" be clearly defined;

iii. That an alteration be made in the constitution of the Provincial Councils by providing for the election of members by single member constituencies; that provision be made for defining the qualification of membership of such Councils,

and that such members be elected for five years instead of three years.

iv. That the following recommendations be submitted for the consideration of the South African National Convention:

(*a*) That at the end of sub-section (ii) section twenty-three the words "for ten years" be omitted, and the words "until the completion of the period for which the person in whose stead he is nominated would have held his seat" be substituted in lieu thereof.

(*b*) That in section sixty-four, after the word "Act" and before the word "that" the following be inserted: "and to such instructions as may from time to time be given in that behalf by His Majesty, his heirs or successors."

(*c*) That in section ninety-six the words "from time to time be temporarily" be omitted, and the word "be" be inserted in lieu thereof; and that the words "or local" be inserted after the word "Provincial."

(*d*) To expunge section ninety-seven, and to substitute the following: "The Governor-General-in-Council may during the absence, illness or other incapacity of the Chief Justice of South Africa, or any ordinary or additional Judge of Appeal, appoint any other Judge of the Supreme Court of South Africa to act temporarily as such Chief Justice, Ordinary Judge of Appeal, or Additional Judge of Appeal, as the case may be."

(*e*) To add at the end of section one hundred and three the following: "Provided that the provisions of this section shall not apply to appeals against judgments on interlocutory applications or on matters of procedure in civil cases or to questions of law reserved by a Judge presiding at Criminal Sessions."

(*f*) To expunge section one hundred and eight, and substitute the following: "The Chief Justice and other Judges of the Supreme Court of South Africa may, subject to the approval of the Governor-General-in-Council, frame rules for the conduct of the proceedings of the several Provincial and Local Divisions. Until such rules shall have been promulgated the rules in force at the establishment of this Union in the respective Courts which become divisions of the Supreme Court of South Africa shall continue to apply therein."

(*g*) That in section one hundred and thirteen, after the word "Provincial" the words "or local" be inserted.

(*h*) That the meaning and intent of section one hundred and thirty-eight be more clearly expressed, so as to ensure the application of the principle of equality of the English and Dutch languages to the Provincial Councils, and Courts of Justice and the Public Service generally.

NATAL.

i. That this House approves of the Draft South Africa Act agreed to by the South African National Convention at Cape Town on the 3rd February, 1909, subject to certain amendments, and with certain resolutions in regard to the same.

ii. Resolutions:

That this House hereby instructs the delegates to the National Convention to do all in their power to preserve intact the liberal provisions regarding the franchise contained in the draft Act of Union, and to strenuously oppose any attempt to limit or alter those clauses which provide for equal political rights.

That it be an instruction to the Natal Delegates that upon the reassembling of the Convention, they use their best endeavours to arrange for an inter-Colonial treaty, providing:

(*a*) That, any Treaty notwithstanding, no part of the Union shall, in regard to commerce, industry, or agriculture, be placed in a worse position than an outside State or Power.

(*b*) That the products of any State or Power outside the Union, the manufacture or exploitation of which may be assisted by any bounty or equivalent thereto, shall not be admitted at a lower duty than shall be equal to the amount of such bounty.

iii. Amendments:

(*a*) *Section 32:* The words "until the total number of members of the House of Assembly in respect of the Provinces herein provided for reaches one hundred and fifty, or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period," to be omitted.

(*b*) *Section 82:* After the word "present," the words "and in case of an equality of votes the Administrator shall have also a casting vote" to be omitted, and the words "other than the Administrator, who shall, however, have and exercise a casting vote in the case of an equality of votes," substituted in lieu thereof.

(*c*) *Section 126a:* New Section to follow section one hundred and twenty-six:

126A. There shall at all times be absolute Free Trade throughout the Union.

(*d*) *Section 128*: After the word "not" the word "more" to be omitted, and the word "less" substituted in lieu thereof.

(*e*) *Section 129*: After the word "development" the words "within the Union" to be omitted; after the word "population" the words "in the inland portions of" to be omitted and the word "throughout" substituted in lieu thereof; and the following proviso to be added at the end of the section:

"Provided that, notwithstanding the provisions of section one hundred and seventeen, it shall be lawful for Parliament, on the recommendation of the Governor-General, to vote for the general purposes of the Union a portion of the revenues of the Railway and Harbour Fund until the provisions of this section shall have come into force, and any moneys so voted shall become part of the Consolidated Revenue Fund."

(*f*) *Section 135:* The words "At any time after the tenth annual grant has been paid to any such towns the Governor-General-in-Council, with the approval of Parliament, may

after due inquiry withdraw or reduce the grant to such town," at the end of the section to be omitted.

(*g*) *Section 136*: After the word "Councils" the words "and the Executive Committees of the Provincial Councils" to be omitted.

(*h*) *Section 148a*: New section to follow section one hundred and forty-eight:

148A. No law providing for the prohibition of the sale and use of intoxicating liquor to natives in any of the Provinces of the Union shall be altered or repealed excepting by a majority of two-thirds of both Houses of Parliament sitting together.

(*i*) *Section 149*: After the word "agreements" the words "including the Railway Agreement, dated 2nd February, 1909, entered into between the Government of the Transvaal and the Governments of the Cape Colony and Natal" to be inserted.

(*j*) *Section 153*: After the word "law" the words "which must be passed by an absolute majority of each House of Parliament" to be inserted; after the words "thirty-two" the word "and" to be omitted; in the same line after the words "thirty-three" the words "(until the number of members of the House of Assembly has reached the limit therein prescribed or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period) or in sections" to be omitted; and after the words "thirty-five" the words "seventy, seventy-one" to be inserted.

(*k*) *Schedule*: In paragraph 18 the words "black and white" to be omitted.

TRANSVAAL.

That this House approves of the Draft South Africa Act agreed to by the South African National Convention at Cape Town on the 3rd February, 1909.

ORANGE RIVER COLONY.

i. This House, whilst reserving for deliberation whether any, and if so, what amendments are deemed desirable to be recommended to the consideration of the Convention at its next session, approves of the Draft South Africa Act agreed to by the South African National Convention at Cape Town on the 3rd February, 1909.

ii. Amendments recommended:

(*a*) That through the delegates of this Colony be recommended for consideration of the Convention at its next session the necessity for more clearly expressing the meaning and intent of the Draft Act in regard to the cases in which the quota of voters may be departed from (to the extent of not exceeding 15 per cent. one way or the other) in the delimitation of electoral divisions referred to in sub-section (*c*) of section three of Clause Forty of the Draft Act.

(*b*) That through the delegates of this Colony the Conven-

tion be recommended to consider the desirability of provision being made for qualifications for members of Provincial Councils.

(*c*) That through the delegates of this Colony the Convention be recommended to consider the advisability of amending section ninety-six of Chapter VI. "Supreme Court of South Africa," as follows:—To insert the words "or local" after the word "Provincial."

[H]

SECOND REPORT OF THE CONVENTION WITH AMENDMENTS TO DRAFT ACT MADE AT BLOEMFONTEIN PRIOR TO ITS FINAL ADOPTION.

I. The delegates to the South African National Convention have the honour to report to the respective Parliaments which appointed them, that at the session recently held at Bloemfontein they have considered the amendments and resolutions adopted by the Parliaments of the several Colonies, as well as other amendments proposed at that session, and have agreed to the following:—

Section Six.

After "of them" to insert "or of any place in them."

Section Twenty-Three.

After "shall" where it first occurs to insert "in respect of the original Provinces."

Section Twenty-Six.

After "writing" to insert "under his hand."

Section Thirty-Three.

In sub-section (i) after "Union" to omit "not being members of His Majesty's regular forces on full-pay"; in sub-section (vi) to add at the end "not being members of His Majesty's regular forces on full pay"; and in sub-section (vii) after "adults" to omit "not being members of His Majesty's regular forces on full pay."

Section Thirty-Five.

In sub-section (i) after "so registered" to insert "in the Province of the Cape of Good Hope."

Section Thirty-Seven.

In sub-section (i) to omit "at" before "elections" and substitute "in connection with"; and after "elections" to insert "election expenses, corrupt and illegal practices."

Section Thirty-Eight.

After "Governor-in-Council" to omit "who nominated him" and substitute "of the Colony in respect of which he was nominated."

Section Thirty-Nine.

To omit all the words after "returning" to the end, and insert "one member."

To omit sub-section (ii) and substitute:

(ii) Each Province shall be divided into electoral divisions in such a manner that each such division shall, subject to the

provisions of sub-section (iii) of this section, contain a number of voters as nearly as may be equal to the quota of the Province.

Section Forty-Two.

In sub-section (i) (*a*) after "boundaries of" to omit "and the number of members assigned to"; and in sub-section (iii) after "divisions" to omit "and the number of members assigned to each division."

Section Forty-Six.

After "writing" to insert "under his hand."

Seetion Fifty-Three.

In sub-section (*a*) after "convicted of" to omit "treason, murder or"; before "offence" to insert "crime or"; and after "received" to insert "a grant of amnesty or."

Section Fifty-Six.

After "allowance of" to omit "three" and substitute "four"; and after "sum of" to omit "two" and substitute "three."

Seetion Sixty-Four.

After "Act" to insert "and to such instructions as may from time to time be given in that behalf by the King"; and after "pleasure" to insert "All Bills repealing or amending this section or any of the provisions of Chapter IV. under the heading "House of Assembly" and all Bills abolishing Provincial Councils or abridging the powers conferred on Provincial Councils under section eighty-five otherwise than in accordance with the provisions of that section shall be so reserved."

Section Seventy.

To divide the section into two sub-sections, the first remaining as printed and the second being a new sub-section, as follows:

(ii) Any person qualified to vote for the election of members of the Provincial Council shall be qualified to be a member of such Council.

Section Seventy-Five.

After "elect" to omit "its own" and substitute "from among its members a."

Section Seventy-Eight.

In sub-section (i), after "otherwise" to omit from "such number" down to "Province," where it first occurs, and substitute "four persons."

Section Eighty-Five.

In sub-section (vii) after "railways" to insert "and"; and after "harbours and" to insert "other than."

Section Ninety-Five.

To omit "Chief Justices and."

Section Ninety-Six.

After "shall" to omit "from time to time be temporarily" and substitute be"; and after "Provincial" to insert "or Local."

Section Ninety-Seven.

Omitted.

New Section (in lieu thereof).

97. The Governor-General-in-Council may during the absence, illness or other incapacity of the Chief Justice of South Africa, or any Ordinary or Additional Judge of Appeal, appoint any other Judge of the Supreme Court of South Africa to act temporarily as such Chief Justice, Ordinary Judge of Appeal, or Additional Judge of Appeal, as the case may be.

Section Ninety-Eight.

To add at the end of sub-section (i) "and shall each be presided over by a Judge President."

Section Ninety-Nine.

To add at the end: "The Chief Justices of the Colonies holding office at the establishment of the Union shall on such establishment become the Judges President of the divisions of the Supreme Court in the respective Provinces, but shall so long as they hold that office retain the title of Chief Justice of their respective Provinces."

Section One Hundred and Three.

To read as follows:—

103. In every civil case in which, at the establishment of the Union, an appeal might have been made to the Supreme Court of any of the Colonies from a Superior Court in any of the Colonies, or from the High Court of Southern Rhodesia, the appeal shall be made only to the Appellate Division; except in cases of orders or judgments given upon applications by way of motion or petition or on summons for provisional sentence or judgments as to costs only which by law are left to the discretion of the Court. The appeal from any such orders or judgments as well as any appeal in criminal cases from any such Superior Court, or the special reference by any such Court of any point of law in a criminal case shall be made to the Provincial Division corresponding to the Court which before the establishment of Union would have had jurisdiction in the matter. There shall be no further appeal against any judgment given on appeal by such Provincial Division except to the Appellate Division and then only if the Appellate Division shall have given special leave to appeal.

Section One Hundred and Four.

To omit "of the Supreme Court of South Africa," where it occurs a second time.

Section One Hundred and Five.

To omit "of the Supreme Court of South Africa," where it occurs a second time.

Section One Hundred and Seven.
To omit "of the Supreme Court of South Africa."

Section One Hundred and Eight.
Omitted.

New Section (in lieu thereof).
108. The Chief Justice and other Judges of the Supreme Court of South Africa may, subject to the approval of the Governor-General-in-Council, frame rules for the conduct of the proceedings of the several Provincial and Local Divisions. Until such rules shall have been promulgated the rules in force at the establishment of the Union in the respective Courts which become Divisions of the Supreme Court of South Africa shall continue to apply therein.

Section One Hundred and Nine.
To omit "of the Supreme Court of South Africa."

Section One Hundred and Thirteen.
After "Provincial" to insert "or Local."

Section One Hundred and Fourteen.
To omit "of the Supreme Court of South Africa"; and after "shall" to omit "in the opinion of the Chief Justice of South Africa."

Section One Hundred and Nineteen.
Omitted.

Section One Hundred and Twenty.
After "form" to omit "the second" and substitute "a first."

Section One Hundred and Twenty-One.
Omitted.

Section One Hundred and Twenty-Six.
Omitted.

New Section (in lieu thereof).
126. The Union shall assume all debts and liabilities of the Colonies existing at its establishment subject to the conditions imposed by any law under with such debts or liabilities were raised or incurred, and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund and other charges conferred on the creditors of any of the Colonies, and may, subject to such conditions and rights, convert, renew or consolidate such debts.

Section One Hundred and Twenty-Nine.
After "portions of" to insert "all Provinces of"; and to omit all the words from "The Governor-General-in-Council" to the end, and insert the following:—"The Governor-General-in-Council shall give effect to the provisions of this section as soon as and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of four years from the establishment of the Union. During such period if the revenues accruing to the Consolidated Revenue

Fund are insufficient to provide for the general service of the Union and if the earnings accruing to the Railway and Harbour Fund are in excess of the outlays specified herein Parliament may by law appropriate such excess or any part thereof towards the general expenditure of the Union, and all sums so appropriated shall be paid over to the Consolidated Revenue Fund."

Section One Hundred and Thirty.

To insert at the beginning "Notwithstanding anything to the contrary in the last preceding section."

Section One Hundred and Thirty-Six.

After "members" to omit "House of Assembly, the Provincial Councils and the."

New Section (to follow Section One Hundred and Thirty-Seven).

137A. There shall be Free Trade throughout the Union, but until Parliament otherwise provides the duties of customs and excise leviable under the laws existing in any of the Colonies at the establishment of the Union shall remain in force.

Section One Hundred and Thirty-Nine.

After "persons" to omit "of European descent."

Section One Hundred and Forty.

To add at the end:—"provided that in the Province of the Cape of Good Hope the Solicitor-General for the Eastern Districts and the Crown Prosecutor for Griqualand West shall respectively continue to exercise the powers and duties by law vested in them at the time of the establishment of the Union."

Section One Hundred and Forty-Five.

After "time at" to insert "which he would have been entitled by law to retire."

Section One Hundred and Forty-Nine.

To divide the section into two sub-sections, the first remaining as printed and the second being a new sub-section, as follows:—

ii The provisions of the Railway Agreement between the Governments of the Transvaal, the Cape of Good Hope and Natal, dated the 2nd February, 1909, shall as far as practicable be given effect to by the Government of the Union.

Schedule.

In paragraph 18 to omit "black and white."

II. The Draft Act as finally adopted by the Convention is attached to this report.

III. The Convention would further recommend that the delegates to be appointed to proceed to London to confer with the Secretary of State for the Colonies in reference to the

The Draft Act has not been reprinted in this Appendix, being in all respects similar to that printed in Appendix "F" except for the amendments enumerated above.—G.R.H.

passage of the Draft Act through the British Parliament should be authorised *inter alia*:—

(1) to agree to any necessary amendments in the Act which do not involve alterations of any of its principles;

(2) to confer with the Secretary of State for the Colonies as to the Royal Instructions to be issued to the Governor-General;

(3) to draft for the guidance of the South African Governments rules and regulations for the first elections of senators in accordance with the provisions of the Act.

CAPE OF GOOD HOPE:—

J. H. DE VILLIERS, President.
JOHN X. MERRIMAN.
J. W. SAUER.
F. S. MALAN.
L. S. JAMESON.
T. W. SMARTT.
E. H. WALTON.
W. E. M. STANFORD.
J. W. JAGGER.
H. C. VAN HEERDEN.
G. H. MAASDORP.
J. H. M. BECK.

NATAL:—

F. R. MOOR.
E. M. GREENE.
T. HYSLOP.
C. J. SMYTHE.
T. WATT.

TRANSVAAL:—

LOUIS BOTHA.
J. C. SMUTS.
H. C. HULL.
G. H. FARRAR.
J. P. FITZPATRICK.
H. L. LINDSAY.
S. W. BURGER.
J. H. De La REY.

ORANGE RIVER COLONY:—

A. FISCHER.
M. T. STEYN, Vice-President.
J. B. M. HERTZOG.
C. R. DE WET.
A. BROWNE.

RHODESIA:—

W. H. MILTON.
C. P. J. COGHLAN.

Convention Chambers,
Houses of Parliament, Bloemfontein,
11th May, 1909.

[I]

RESOLUTIONS ADOPTED BY THE VARIOUS PARLIAMENTS APPROVING OF THE DRAFT ACT AS WELL AS ADDRESSES TO H.M. THE KING FOR THE AUTHORISATION OF THE PROPOSED UNION.

RESOLUTIONS.

Cape of Good Hope.

Resolutions of both Houses.

This House approves of the Draft South Africa Act as amended and agreed to by the South African National Convention at Bloemfontein on the 11th May, 1909.

(Legislative Council, 4th June, 1909, Minutes, p. 32.)

(House of Assembly, 3rd June, 1909, V. and P., pp. 61-63.)

That His Majesty the King be requested by humble address to cause the necessary steps to be taken to authorise the legislative union under one Government under the name of South Africa, of this Colony with such other of the Colonies of Natal, the Transvaal and the Orange River Colony as may agree thereto, in accordance with the provisions of the Draft South Africa Act.

(Legislative Council, 4th June, 1909, Minutes, p. 32.)

(House of Assembly, 3rd June, 1909, V. and P., p. 63.)

Natal.

Resolution of House of Assembly.

That the following Address be now adopted for presentation to His Most Gracious Majesty the King, viz.:—

(For Address see page 357).

(Legislative Assembly, 16th June, 1909, V. and P., pp. 10-11.)

Transvaal.

Resolutions of both Houses.

This House approves of the Draft South Africa Act as finally adopted by the South African National Convention.

(Legislative Council, 2nd June, 1909, Minutes, p. 1.)

(Legislative Assembly, 2nd June, 1909, V. and P., pp. 7-8.

That His Majesty the King be requested by humble address to cause the necessary steps to be taken to authorise the Legislative union, under one Government under the name of South Africa, of this Colony with such other of the Colonies of the Cape of Good Hope, Natal and the Orange River

Colony, as may agree thereto in accordance with the provisions of the Draft South Africa Act.

(Legislative Council, 2nd June, 1909. Minutes, p. 4.)

(Legislative Assembly, 2nd June, 1909. V. and P., p. 8.)

Orange River Colony.

Resolutions of both Houses.

This House approves of the Draft South Africa Act as amended and agreed to by the South African National Convention at Bloemfontein on the 11th May, 1909.

(Legislative Council, 3rd June, 1909. Minutes, p. 26.)

(House of Assembly, 2nd June, 1909. V. and P., p. 33.)

That His Majesty the King be requested by humble address to cause the necessary steps to be taken to authorise the Legislative Union, under one Government, under the name of South Africa of this Colony with such other of the Colonies of the Cape of Good Hope, Natal and the Transvaal as may agree thereto in accordance with the provisions of the Draft South Africa Act.

(Legislative Council, 3rd June, 1909. Minutes, p. 26.)

(House of Assembly, 2nd June, 1909. V. and P., p. 33.)

Addresses to H.M. the King.

Cape of Good Hope.

To His Most Gracious Majesty Edward VII., by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

We, Your Majesty's Most Dutiful and Loyal Subjects, the President and Members of the Legislative Council, and the Speaker and Members of the House of Assembly of the Cape of Good Hope in Parliament assembled have agreed to a resolution in favour of the legislative union, under one government, under the name of South Africa, of this Colony with such other of the Colonies of Natal, the Transvaal and the Orange River Colony as may agree thereto, in accordance with the provisions of the Draft South Africa Act, a copy of which is hereunto annexed, but subject to such necessary amendments, not inconsistent with the principles laid down in the said Act, as may be agreed upon between your Majesty's Secretary of State for the Colonies and any delegation that may be appointed by the several Colonies for the purpose of

conferring with him, and we therefore pray that Your Majesty may be graciously pleased to cause the necessary steps to be taken to authorise the contemplated Union.

And we humbly assure Your Majesty of our continued loyalty and devotion to your Majesty's Throne and Person.

(Legislative Council, 7th June, 1909, Minutes, p. 35.)
(House of Assembly, 7th June, 1909, V. and P., p. 70.)

Natal.

To His Most Gracious Majesty, Edward VII., by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

We, Your Majesty's Most Dutiful and Loyal Subjects, the Speaker and Members of the Legislative Assembly of the Colony of Natal in Parliament assembled, humbly desire to inform your Majesty that the electors of this Colony have by referendum under Act No. 2 of 1909, decided to enter into a union in accordance with the provisions of the Draft South Africa Act, copy of which is hereunto annexed,

A delegation appointed by the several Colonies will proceed to England to confer with Your Majesty's Secretary of State for the Colonies, and will have power to agree to necessary amendments not inconsistent with the principles laid down in the said Act of Union.

We therefore pray that Your Majesty may be graciously pleased to cause the necessary steps to be taken to authorise the contemplated Union, and we humbly assure Your Majesty of our continued loyalty and devotion to Your Majesty's Throne and Person.

(Legislative Assembly, 16th June, 1909, V. and P., pp. 10-11.

Transvaal.

(Similar in form to that adopted by the Parliament of the Cape of Good Hope).

(Legislative Council, 3rd June, 1909, Minutes, p. 5.)
Legislative Assembly, 3rd June, 1909, V. and P., pp. 11-12.)

Orange River Colony.

(Similar in form to that adopted by the Parliament of the Cape of Good Hope.)

(Legislative Council, 8th June, 1909, Minutes, pp. 30-31.)
House of Assembly, 7th June, 1909, V. and P., pp. 50-51.)

[J]

APPOINTMENT OF DELEGATES TO LONDON IN CONNECTION WITH THE PASSAGE OF THE DRAFT ACT THROUGH THE PARLIAMENT OF THE UNITED KINGDOM.

Cape of Good Hope.

Resolutions of both Houses.

(1) This House concurs in the recommendation of the National Convention that delegates should be appointed to proceed to London to confer with the Secretary of State for the Colonies, in reference to the passage of the Draft Act establishing a constitution for South Africa through the British Parliament, with the following powers:

(i) To agree to such amendments in the Act which do not involve alterations in any of the principles of that Act as may be agreed in by all the delegates.

(ii) To confer with the Secretary of State for the Colonies as to the Royal instructions to be issued to the Governor-General.

(iii) To draft for the guidance of the South African Governments rules and regulations for the first election of Senators in accordance with the provisions of the Act.

(2) That the delegates so appointed shall be as follows:—The Right Hon. Sir J. H. de Villiers, The Right Hon. Dr. L. S. Jameson, the Hon. J. W. Sauer, the Hon. J. H Hofmeyr, the Hon. J. X. Merriman.

(Legislative Council, 8th June, 1909, Minutes, pp. 39-40.)

(House of Assembly, 8th June, 1909, V. and P., p. 79.)

Natal.

The *Prime Minister* informed the House that he proposed to ask his four fellow delegates at the National Convention to accompany him on the forthcoming visit to England, to join in laying the Draft South Africa Act before the British Parliament.

(Legislative Assembly, 17th June, 1909, V. and P., p. 19.)

Transvaal.

Resolutions of both Houses

That in accordance with the recommendation contained in paragraph IV. of the Report of the South African National Convention, dated 3rd February, 1909, the Government be authorised to appoint delegates to proceed to England for the purpose of conferring with the Secretary of State for the Colonies with reference to the passage of the Draft Act

through the British Parliament, and that the instructions recommended by the Convention in paragraph III. of their second report, dated the 11th May, 1909, for the guidance of the delegates be approved.

(Legislative Council, 3rd June, 1909, Minutes, p. 5.)

(Legislative Assembly, 3rd June, 1909, V. and P., p. 12.)

The *Prime Minister* intimated that in accordance with the resolution adopted by this House on the 3rd instant, the Government had appointed the following members as delegates to proceed to London in connection with the Draft South Africa Act, viz., Sir George Farrar, Sir Percy Fitzpatrick, the Colonial Secretary, the Colonial Treasurer and the Prime Minister.

(Legislative Assembly, 25th June, 1909, V. and P., p. 214.)

Orange River Colony.

Resolutions of both Houses.

That this House adopts the second report of the South African National Convention on Closer Union dated 11th May, 1909, and in terms of the recommendation therein contained confers authority on the Orange River Colony members of the delegation who are to proceed to England for the purposes as set forth in the Reports of the Convention dated respectively the 3rd February, 1909, and the 11th May, 1909, with the proviso that authority of the delegates in regard to agreeing to amendments shall be confined only to such amendments as are not inconsistent with the provisions and principles laid down in the said Draft Act.

(Legislative Council, 4th June, 1909, Minutes, pp. 28-29.)

(House of Assembly, 4th June, 1909, V. and P., p. 45.)

The *Prime Minister* announced that the Government had appointed the Hon. M. T. Steyn, the Hon. A. Browne, the Hon. J. B. M. Hertzog and the Hon. A. Fischer as members of the delegation who are to proceed to England for the purposes set forth in both the reports of the South African National Convention adopted by both Houses of Parliament.

(Legislative Council, 14th June, 1909, Minutes, p. 60.)

(House of Assembly, 10th June, 1909, V. and P., p. 76.)

[K]

SCHEDULE OF AMENDMENTS TO THE DRAFT ACT MADE IN ENGLAND PRIOR TO ITS INTRODUCTION INTO THE PARLIAMENT OF THE UNITED KINGDOM.

Preamble.

In the second paragraph, after "Union of," to omit "those" and substitute "the"; after "Colonies," to omit "which may assent thereto" and substitute "of the Cape of Good Hope, Natal, the Transvaal and the Orange River Colony on terms and conditions to which they have agreed by resolution of their respective Parliaments"; in the fourth paragraph, to omit "as Provinces or Territories" and insert "or transfer to the Union"; and in the enacting clause to omit "etc.," and insert "by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same as follows:"

Clause One.

After "Africa Act," to insert "1909."

Clause Two.

After "in this Act," to insert "unless it is otherwise expressed or implied," and to omit those words after "shall"; after "mean" to insert "the Union of," and to add at the end "and the words 'Houses of Parliament,' 'House of Parliament' or 'Parliament' shall be taken to mean the Parliament of the Union."

Clause Four.

After "Act," to omit "any two or more of"; after "Colonies" to omit "which shall, before the passing of this Act or thereafter before the date of such proclamation, have agreed thereto either by Act of Parliament or by resolutions of both Houses of Parliament"; after "name of," to insert "the Union of," and after "limits of the Colonies" to omit "which shall have so agreed."

Clause Six.

To omit "Such of"; after "Colonies," to omit "as shall have agreed to enter the Union before the date of the proclamation," and to omit all the words after "establishment of the Union" to the end of the clause.

New Clause (to follow Clause Six).

7. Upon any Colony entering the Union, the Colonial Boundaries Act, 1895, and every other Act applying to any of the Colonies as being self-governing Colonies or Colonies with responsible Government shall cease to apply to that Colony, but as from the date when this Act takes effect every such Act of Parliament shall apply to the Union.

Clause Seven.

To omit "South Africa" and substitute "the Union."

The draft Act passed both Houses of the Parliament of the United Kingdom without further amendment. G.R.H.

Clause Ten.

To add at the end "The King may authorise the Governor-General to appoint any person to be his deputy within the Union during his temporary absence, and in that capacity to exercise for and on behalf of the Governor-General during such absence all such powers and authorities vested in the Governor-General as the Governor-General may assign to him, subject to any limitations expressed or directions given by the King; but the appointment of such deputy shall not affect the exercise by the Governor-General himself of any power or function."

Clause Seventeen.

After "section," to omit "twenty-two" and substitute "twenty-three."

Clause Twenty-five.

To add at the end "For the purposes of this section residence in and property situated within a Colony before its incorporation in the Union shall be treated as residence in and property situated within the Union."

Clause Thirty-three.

After "section," to omit "twenty-two" and substitute "thirty-three"; and in sub-section (iii), after "After," to omit "every" and substitute "any."

Clause Thirty-four.

Omitted.

Clause Thirty-eight.

After "duties of the commission," to insert "The commission may regulate their own procedure and may act by a majority of their number."

Clause Forty-four.

To add at the end "For the purposes of this section residence in a Colony before its incorporation in the Union shall be treated as residence in the Union."

Clause Fifty-one.

In the forms of Oath and Affirmation to omit "King Edward the Seventh" and substitute "[here insert the name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being]," and before "heirs" to insert "[or Her]."

Clause Fifty-nine.

After "government of" to omit "South Africa" and substitute "the Union."

Clause Seventy-one.

To omit "elections" and substitute "election."

Clause Seventy-five.

After "thereof," to omit "by" and substitute "in."

Clause Eighty-five.

In sub-section (xiii.), after "shall" to insert "by any law."

Clause Ninety-seven.

After "Africa or" to insert "of."

Clause One Hundred and Three.

After "which," to insert "according to the law in force"; before "except" to omit the semi-colon: after "judgments given" to insert "by a single judge"; and after "establishment of" to insert "the."

Clause One Hundred and Six.

To add at the end "Provided that nothing in this section shall affect any right of appeal to His-Majesty-in-Council from any judgment given by the Appellate Division of the Supreme Court under or in virtue of the Colonial Courts of Admiralty Act, 1890."

Clause One Hundred and Sixteen.

To add at the end "All appeals to the King-in-Council which shall be pending at the establishment of the Union shall be proceeded with as if this Act had not been passed."

Clause One Hundred and Twenty-one.

To omit "date" and substitute "establishment."

Clause One Hundred and Twenty-four.

After "establishment subject" to insert "notwithstanding any other provision contained in this Act."

Clause One Hundred and Twenty-seven.

Before "promotion" to omit "the."

Clause One Hundred and Thirty.

After "certified" to omit "to."

Clause One Hundred and Thirty-three.

After "31st," where it first occurs, to insert "day of."

Clause One hundred and Thirty-six.

To omit "customs" and substitute "custom."

Clause One Hundred and Forty-seven.

After "affairs" to insert "and of matters specially or differentially affecting Asiatics": and after "chiefs" to insert "and any lands vested in the Governor or Governor and Executive Council of any Colony for the purpose of reserves for native locations shall vest in the Governor-General-in-Council, who shall exercise all special powers in relation to such reserves as may hitherto have been exercisable by any such Governor or Governor and Executive Council, and no lands set aside for the occupation of natives which cannot at the establishment of the Union be alienated except by an Act of the Colonial Legislature shall be alienated or in any way diverted from the purposes for which they are set apart except under the authority of an Act of Parliament."

Clause One Hundred and Forty-nine.

To omit "or Territories."

Clause One Hundred and Fifty.

To omit "Colonies not originally included therein and territories including."

Clause One Hundred and Fifty-one.

To omit "protectorate" and substitute "protection."

Heading to Part X.

To omit "this."

Clause One Hundred and Fifty-two.

After "sections" to omit "thirty-two" and substitute "thirty-three"; and after "and" to omit "thirty-three" and substitute "thirty-four."

Schedule.

Paragraph 1.

After "under the" to omit "protectorate" and substitute "protection"; and after "shall by" to make "resolution" in the plural and to insert "passed in the same session."

Paragraph 2.

After "advised in" to insert "the general conduct of"; and to add at the end "who shall take the instructions of the Prime Minister in conducting all correspondence relating to the territories and shall also under the like control have custody of all official papers relating to the territories."

Paragraph 3.

After "Houses of Parliament" to insert "passed in the same session praying for such removal"; after "They shall not be" to omit "eligible" and substitute "qualified," and after "become" to insert "or to be."

Paragraph 4.

After "to the" to insert "general conduct of the"; after "state" to omit "as his deputy" and substitute "nominated by the Prime Minister to be his deputy for a fixed period"; after "failing" to omit "them" and substitute "such nomination"; after "commission shall" to omit "with the Prime Minister or his deputy"; and after "of them" to omit "with the Prime Minister or his deputy."

Paragraph 10.

After "Governor-General-in-Council shall" to omit "be of opinion" and substitute "transmit to the commission a minute recording his opinion."

Paragraph 11.

To omit "by the Governor-General-in-Council" where it first occurs; and to omit all the words after "to the" to the end and substitute "secretary to the commission for the consideration of the commission and of the Prime Minister. A proclamation shall be issued by the Governor-General-in-Council giving to the provisions for revenue and expenditure made in the estimates as finally approved by the Governor-General-in-Council the force of law."

Paragraph 13.

To omit "In case" and substitute "If"; after "expenditure" to insert "thereof"; after "deficiency," where it first occurs, to omit "shall be advanced by the Government of the

Union" and insert "may with the approval of the Governor-General-in-Council and on such terms and conditions and in such manner as with the like approval may be directed or prescribed, be advanced from the funds of any other territory. In default of any such arrangement, the amount required to make good any such deficiency shall be advanced by the Government of the Union"; after "previously advanced" to insert "by any other territory or"; after "deficiency in" to insert "the revenue of," and after "such Territory" to omit all the words to the end.

Paragraph 15.

After "sale of" to insert "intoxicating," and to add at the end "and no provision giving facilities for introducing obtaining or possessing such liquor in any part of the Territories less stringent than those existing at the time of transfer shall be allowed."

Paragraph 19.

To add at the end "so, however, that that contribution shall not bear a higher proportion to the total cost of such services than that which the amount payable under paragraph 12 of this Schedule from the Treasury of the Union towards the cost of administration of the territory bears to the total customs revenue of the Union on the average of the three years immediately preceding the year for which the contribution is made."

Paragraph 22.

After "existing" to omit "on the 16th December, 1908, of civil servants" and substitute "at the date of transfer of officers of the public service."

Paragraph 24.

To omit "Governor-General-in-Council" and substitute "Commission," and after "Territories," to omit "and lay the same" and substitute "which shall, when approved by the Governor-General-in-Council, be laid."

[L]

SOUTH AFRICA ACT, AS ASSENTED TO AND PROMULATED.

South Africa Act, 1909. 9 Edw. 7. Ch. 9.

ARRANGEMENT OF SECTIONS.

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Section.

1. Short title.
2. Definitions.
3. Application of Act to King's successors.

II.—*The Union.*

4. Proclamation of Union.
5. Commencement of Act.
6. Incorporation of Colonies into the Union.
7. Application of Colonial Boundaries Act, etc.

III.—*Executive Government.*

8. Executive power.
9. Governor-General.
10. Salary of Governor-General.
11. Application of Act to Governor-General.
12. Executive Council.
13. Meaning of Governor-General-in-Council.
14. Appointment of Ministers.
15. Appointment and removal of officers.
16. Transfer of executive powers to Governor-General-in-Council.
17. Command of naval and military forces.
18. Seat of Government.

IV. *Parliament.*

19. Legislative power.
20. Sessions and dissolution of Parliament.
21. Summoning of first Parliament.
22. Annual session of Parliament.
23. Seat of Legislature.

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24. Original constitution of Senate.
25. Subsequent constitution of Senate.
26. Qualifications of senators.
27. Appointment and tenure of office of President.
28. Deputy-President.
29. Resignation of senators.
30. Quorum.
31. Voting in the Senate.

House of Assembly.

32. Constitution of House of Assembly.
33. Original number of members.
34. Increase of number of members.
35. Qualifications of voters.
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37. Elections.
38. Commission for delimitation of electoral divisions.
39. Electoral divisions.
40. Method of dividing provinces into electoral divisions.
41. Alteration of electoral divisions.
42. Powers and duties of commission for delimiting electoral divisions.
43. Date from which alteration of electoral divisions to take effect.
44. Qualifications of members of House of Assembly.
45. Duration.
46. Appointment and tenure of office of Speaker.
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48. Resignation of members.
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50. Voting in House of Assembly.

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52. Member of either House disqualified for being member of the other House.
53. Disqualifications for being a member of either House.
54. Vacation of seats.
55. Penalty for sitting or voting when disqualified.
56. Allowances of members.
57. Privileges of Houses of Parliament.
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59. Powers of Parliament.
60. Money Bills.
61. Appropriation Bills.
62. Recommendation of money votes.

63. Disagreements between the two Houses.
64. Royal Assent to Bills.
65. Disallowance of Bills.
66. Reservation of Bills.
67. Signature and enrolment of Acts.

V.—*The Provinces.*

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68. Appointment and tenure of office of provincial administrators.
69. Salaries of administrators.

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70. Constitution of provincial councils.
71. Election of provincial councillors.
72. Application of sections *fifty-three* to *fifty-five* to provincial councillors.
73. Tenure of office by provincial councillors.
74. Sessions of provincial councils.
75. Chairmen of provincial councils and rules of procedure.
76. Allowances of provincial councillors.
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Executive Committees.

78. Provincial executive committees.
79. Right of administrator, etc., to take part in proceedings of provincial council.
80. Powers of provincial executive committees.
81. Transfer of powers to provincial executive committees.
82. Voting in executive committees.
83. Appointment of officers by executive committees.
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Powers of Provincial Councils.

85. Powers of provincial councils.
86. Effect of provincial ordinances.
87. Recommendations to Parliament.
88. Power to deal with matters proper to be dealt with by private Bill legislation.
89. Constitution of provincial revenue fund.
90. Assent to provincial ordinances.
91. Effect and enrolment of ordinances.

Miscellaneous.

92. Audit of provincial accounts.
93. Continuation of powers of divisional and municipal councils.
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SCHEDULE.

CHAPTER 9.

An Act to Constitute the Union of South Africa.

[20th September, 1909.]

WHEREAS it is desirable for the welfare and future progress of South Africa that the several British Colonies therein should be united under one Government in a legislative union under the Crown of Great Britain and Ireland:

And whereas it is expedient to make provision for the union of the Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony on terms and conditions to which they have agreed by resolution of their respective Parliaments, and to define the executive, legislative, and judicial powers to be exercised in the government of the Union:

And whereas it is expedient to make provision for the establishment of provinces with powers of legislation and administration in local matters and in such other matters as may be specially reserved for provincial legislation and administration:

And whereas it is expedient to provide for the eventual admission into the Union or transfer to the Union of such parts of South Africa as are not originally included therein:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I. *Preliminary.*

Short title.

1. This Act may be cited as the South Africa Act, 1909.

Definitions.

2. In this Act, unless it is otherwise expressed or implied, the words "the Union" shall be taken to mean the Union of South Africa as constituted under this Act, and the words "Houses of Parliament," "House of Parliament," or "Parliament," shall be taken to mean the Parliament of the Union.

Application of Act to King's successors.

3. The provisions of this Act referring to the King shall extend to His Majesty's heirs and successors in the sovereignty of the United Kingdom of Great Britain and Ireland.

II. *The Union.*

Proclamation of Union.

4. It shall be lawful for the King, with the advice of the Privy Council, to declare by proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, the Colonies of the Cape of Good

Hope, Natal, the Transvaal, and the Orange River Colony, hereinafter called the Colonies shall be united in a legislative union under one Government under the name of the Union of South Africa. On and after the day appointed by such proclamation the Government and Parliament of the Union shall have full power and authority within the limits of the Colonies, but the King may at any time after the proclamation appoint a Governor-General for the Union.

Commencement of Act

5. The provisions of this Act shall, unless it is otherwise expressed or implied, take effect on and after the day so appointed.

Incorporation of Colonies into the Union.

6. The Colonies mentioned in section *four* shall become original provinces of the Union under the names of Cape of Good Hope, Natal, Transvaal, and Orange Free State, as the case may be. The original provinces shall have the same limits as the respective Colonies at the establishment of the Union.

Application of 58 & 59 Vict. c. 34, etc.

7. Upon any Colony entering the Union, the Colonial Boundaries Act, 1895, and every other Act applying to any of the Colonies as being self-governing Colonies or Colonies with responsible government, shall cease to apply to that Colony, but as from the date when this Act takes effect every such Act of Parliament shall apply to the Union.

III. *Executive Government.*

Executive power.

8. The Executive Government of the Union is vested in the King, and shall be administered by His Majesty in person or by a Governor-General as his representative.

Governor-General.

9. The Governor-General shall be appointed by the King, and shall have and may exercise in the Union during the King's pleasure, but subject to this Act, such powers and functions of the King as His Majesty may be pleased to assign to him.

Salary of Governor-General.

10. There shall be payable to the King out of the Consolidated Revenue Fund of the Union for the salary of the Governor-General an annual sum of ten thousand pounds. The salary of the Governor-General shall not be altered during his continuance in office.

Application of Act to Governor-General.

11. The provisions of this Act relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as the King may appoint to administer the government of the Union. The King may authorize the Governor-General to appoint any person to be his deputy within the Union during his temporary absence, and in that capacity to exercise for and on behalf of the Governor-General during such absence all such powers and authorities vested in the Governor-General as the Governor-General may assign to him, subject to any limitations expressed or directions given by the King; but the appointment of such deputy shall not affect the exercise by the Governor-General himself of any power or function.

Executive Council.

12. There shall be an Executive Council to advise the Governor-General in the government of the Union, and the members of the council shall be chosen and summoned by the Governor-General and sworn as executive councillors, and shall hold office during his pleasure.

Meaning of Governor-General in Council.

13. The provisions of this Act referring to the Governor-General-in-Council shall be construed as referring to the Governor-General acting with the advice of the Executive Council.

Appointment of ministers.

14. The Governor-General may appoint officers not exceeding ten in number to administer such departments of State of the Union as the Governor-General-in-Council may establish; such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Executive Council, and shall be the King's Ministers of State for the Union. After the first general election of members of the House of Assembly, as hereinafter provided, no minister shall hold office for a longer period than three months unless he is or becomes a member of either House of Parliament.

Appointment and removal of officers.

15. The appointment and removal of all officers of the public service of the Union shall be vested in the Governor-General-in-Council, unless the appointment is delegated by the Governor-General-in-Council or by this Act or by a law of Parliament to some other authority.

Transfer of executive powers to Governor-General-in-Council.

16. All powers, authorities, and functions which at the establishment of the Union are in any of the Colonies vested in the Governor or in the Governor-in-Council, or in any authority of the Colony, shall, as far as the same continue in existence and are capable of being exercised after the establishment of the Union, be vested in the Governor-General or in the Governor-General-in-Council, or in the authority exercising similar powers under the Union, as the case may be, except such powers and functions as are by this Act or may by a law of Parliament be vested in some other authority.

Command of naval and military forces.

17. The command-in-chief of the naval and military forces within the Union is vested in the King, or in the Governor-General as his representative.

Seat of Government.

18. Save as in section *twenty-three* excepted, Pretoria shall be the seat of Government of the Union.

IV. *Parliament.*

Legislative power.

19. The legislative power of the Union shall be vested in the Parliament of the Union, herein called Parliament, which shall consist of the King, a Senate, and a House of Assembly.

Sessions and dissolution of Parliament.

20. The Governor-General may appoint such times for holding the sessions of Parliament as he thinks fit, and may also from time to time, by proclamation or otherwise, prorogue Parliament, and may in like manner dissolve the Senate and the House of Assembly simultaneously, or the House of Assembly alone: provided that the Senate shall not be dissolved

within a period of ten years after the establishment of the Union, and provided further that the dissolution of the Senate shall not affect any senators nominated by the Governor-General-in-Council.

Summoning of first Parliament.

21. Parliament shall be summoned to meet not later than six months after the establishment of the Union.

Annual session of Parliament.

22. There shall be a session of Parliament once at least in every year, so that a period of twelve months shall not intervene between the last sitting of Parliament in one session and its first sitting in the next session.

Seat of Legislature.

23. Capetown shall be the seat of the Legislature of the Union.

Senate.

Original constitution of Senate.

24. For ten years after the establishment of the Union the constitution of the Senate shall, in respect of the original provinces, be as follows:

(i) Eight senators shall be nominated by the Governor-General-in-Council, and for each original province eight senators shall be elected in the manner hereinafter provided:

(ii) The senators to be nominated by the Governor-General-in-Council shall hold their seats for ten years. One-half of their number shall be selected on the ground mainly of their thorough acquaintance, by reason of their official experience or otherwise, with the reasonable wants and wishes of the coloured races in South Africa. If the seat of a senator so nominated shall become vacant, the Governor-General-in-Council shall nominate another person to be a senator, who shall hold his seat for ten years.

(iii) After the passing of this Act, and before the day appointed for the establishment of the Union, the Governor of each of the Colonies shall summon a special sitting of both Houses of the Legislature, and the two Houses sitting together as one body and presided over by the Speaker of the Legislative Assembly shall elect eight persons to be senators for the province. Such senators shall hold their seats for ten years. If the seat of a senator so elected shall become vacant, the provincial council of the province for which such senator has been elected shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat.

Subsequent constitution of Senate.

25. Parliament may provide for the manner in which the Senate shall be constituted after the expiration of ten years, and unless and until such provision shall have been made

(i) the provisions of the last preceding section with regard to nominated senators shall continue to have effect:

(ii) eight senators for each province shall be elected by the members of the provincial council of such province together with the members of the House of Assembly elected for such province. Such senators shall hold their seats for ten years unless the Senate be sooner dissolved. If the seat of an elected senator shall become vacant, the members of the pro-

vincial council of the province, together with the members of the House of Assembly elected for such province, shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat. The Governor-General-in-Council shall make regulations for the joint election of senators prescribed in this section.

Qualifications of senators.

26. The qualifications of a senator shall be as follows:—

He must—

(*a*) be not less than thirty years of age;

(*b*) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;

(*c*) have resided for five years within the limits of the Union as existing at the time when he is elected or nominated, as the case may be;

(*d*) be a British subject of European descent;

(*e*) in the case of an elected senator, be the registered owner of immovable property within the Union of the value of not less than five hundred pounds over and above any special mortgages thereon.

For the purposes of this section, residence in, and property situated within, a Colony before its incorporation in the Union shall be treated as residence in and property situated within the Union.

Appointment and tenure of office of President.

27. The Senate shall, before proceeding to the dispatch of any other business, choose a senator to be the President of the Senate, and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President. The President shall cease to hold office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office by writing under his hand addressed to the Governor-General.

Deputy President.

28. Prior to or during any absence of the President the Senate may choose a senator to perform his duties in his absence.

Resignation of senators.

29. A senator may, by writing under his hand addressed to the Governor-General, resign his seat, which thereupon shall become vacant. The Governor-General shall as soon as practicable cause steps to be taken to have the vacancy filled.

Quorum.

30. The presence of at least twelve senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

Voting in the Senate.

31. All questions in the Senate shall be determined by a majority of votes of senators present other than the President or the presiding senator, who shall, however, have and exercise a casting vote in the case of an equality of votes.

House of Assembly.

Constitution of House of Assembly.

32. The House of Assembly shall be composed of members directly chosen by the voters of the Union in electoral divisions delimited as hereinafter provided.

33. The number of members to be elected in the original provinces at the first election and until the number is altered in accordance with the provisions of this Act shall be as follows:— Original number of members.

Cape of Good Hope	Fifty-one.
Natal	Seventeen.
Transvaal.	Thirty-six.
Orange Free State	Seventeen.

These numbers may be increased as provided in the next succeeding section, but shall not, in the case of any original province, be diminished until the total number of members of the House of Assembly in respect of the provinces herein provided for reaches one hundred and fifty, or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period.

34. The number of members to be elected in each province, as provided in section *thirty-three*, shall be increased from time to time as may be necessary in accordance with the following provisions:— Increase of number of members.

(i) The quota of the Union shall be obtained by dividing the total number of European male adults in the Union, as ascertained at the census of nineteen hundred and four, by the total number of members of the House of Assembly as constituted at the establishment of the Union:

(ii) In nineteen hundred and eleven, and every five years thereafter, a census of the European population of the Union shall be taken for the purposes of this Act:

(iii) After any such census the number of European male adults in each province shall be compared with the number of European male adults as ascertained at the census of nineteen hundred and four, and, in the case of any province where an increase is shown, as compared with the census of nineteen hundred and four, equal to the quota of the Union or any multiple thereof, the number of members allotted to such province in the last preceding section shall be increased by an additional member or an additional number of members equal to such multiple, as the case may be:

(iv) Notwithstanding anything herein contained, no additional member shall be allotted to any province until the total number of European male adults in such province exceeds the quota of the Union multiplied by the number of members allotted to such province for the time being, and thereupon additional members shall be allotted to such province in respect only of such excess:

(v) As soon as the number of members of the House of Assembly to be elected in the original provinces in accordance with the preceding sub-sections reaches the total of one hundred and fifty, such total shall not be further increased unless and until Parliament otherwise provides: and subject to the provisions of the last preceding section the distribution of

members among the provinces shall be such that the proportion between the number of members to be elected at any time in each province and the number of European male adults in such province, as ascertained at the last preceding census, shall as far as possible be identical throughout the Union:

(vi) "Male adults" in this Act shall be taken to mean males of twenty-one years of age or upwards not being members of His Majesty's regular forces on full pay: .

(vii) For the purposes of this Act the number of European male adults, as ascertained at the census of nineteen hundred and four, shall be taken to be:—

For the Cape of Good Hope	167,546
For Natal	34,784
For the Transvaal	106,493
For the Orange Free State	41,014

Qualifications of voters.

35. (1) Parliament may by law prescribe the qualifications which shall be necessary to entitle persons to vote at the election of members of the House of Assembly, but no such law shall disqualify any person in the province of the Cape of Good Hope who, under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union, is or may become capable of being registered as a voter from being so registered in the province of the Cape of Good Hope by reason of his race or colour only, unless the Bill be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A Bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

(2) No person who at the passing of any such law is registered as a voter in any province shall be removed from the register by reason only of any disqualification based on race or colour.

Application of existing qualifications.

36. Subject to the provisions of the last preceding section, the qualifications of parliamentary voters, as existing in the several Colonies at the establishment of the Union, shall be the qualifications necessary to entitle persons in the corresponding provinces to vote for the election of members of the House of Assembly: Provided that no member of His Majesty's regular forces on full pay shall be entitled to be registered as a voter.

Elections.

37. (1) Subject to the provisions of this Act, the laws in force in the Colonies at the establishment of the Union relating to elections for the more numerous Houses of Parliament in such Colonies respectively, the registration of voters, the oaths or declarations to be taken by voters, returning officers, the powers and duties of such officers, the proceedings in connection with elections, election expenses, corrupt and illegal practices, the hearing of election petitions and the proceedings incident thereto, the vacating of seats of members, and the

proceedings necessary for filling such vacancies, shall, *mutatis mutandis*, apply to the elections in the respective provinces of members of the House of Assembly.

(2) Notwithstanding anything to the contrary in any of the said laws contained, at any general election of members of the House of Assembly, all polls shall be taken on one and the same day in all the electoral divisions throughout the Union, such day to be appointed by the Governor-General-in-Council.

Commission for delimitation of electoral divisions.

38. Between the date of the passing of this Act and the date fixed for the establishment of the Union, the Governor-in-Council of each of the Colonies shall nominate a judge of any of the Supreme or High Courts of the Colonies, and the judges so nominated shall, upon acceptance by them respectively of such nomination, form a joint commission, without any further appointment, for the purpose of the first division of the provinces into electoral divisions. The High Commissioner for South Africa shall forthwith convene a meeting of such commission at such time and place in one of the Colonies as he shall fix and determine. At such meeting the Commissioners shall elect one of their number as chairman of such commission. They shall thereupon proceed with the discharge of their duties under this Act, and may appoint persons in any province to assist them or to act as assessors to the commission or with individual members thereof for the purpose of inquiring into matters connected with the duties of the commission. The commission may regulate their own procedure and may act by a majority of their number. All moneys required for the payment of the expenses of such commission before the establishment of the Union in any of the Colonies shall be provided by the Governor-in-Council of such Colony. In case of the death, resignation, or other disability of any of the Commissioners before the establishment of the Union, the Governor-in-Council of the Colony in respect of which he was nominated shall forthwith nominate another judge to fill the vacancy. After the establishment of the Union the expenses of the commission shall be defrayed by the Governor-General-in-Council, and any vacancies shall be filled by him.

Electoral divisions.

39. The commission shall divide each province into electoral divisions, each returning one member.

Method of dividing provinces into electoral divisions.

40. (1) For the purpose of such division as is in the last preceding section mentioned, the quota of each province shall be obtained by dividing the total number of voters in the province, as ascertained at the last registration of voters, by the number of members of the House of Assembly to be elected therein.

(2) Each province shall be divided into electoral divisions in such a manner that each such division shall, subject to the provisions of sub-section (3) of this section, contain a number of voters, as nearly as may be, equal to the quota of the province.

(3) The Commissioners shall give due consideration to—

(*a*) community or diversity of interests;
(*b*) means of communication;
(*c*) physical features;
(*d*) existing electoral boundaries;
(*e*) sparsity or density of population;

in such manner that, while taking the quota of voters as the basis of division, the Commissioners may, whenever they deem it necessary, depart therefrom, but in no case to any greater extent than fifteen per centum more or fifteen per centum less than the quota.

Alteration of electoral divisions.

41. As soon as may be after every quinquennial census, the Governor-General-in-Council shall appoint a commission consisting of three judges of the Supreme Court of South Africa to carry out any re-division which may have become necessary as between the different electoral divisions in each province, and to provide for the allocation of the number of members to which such province may have become entitled under the provisions of this Act. In carrying out such re-division and allocation the commission shall have the same powers and proceed upon the same principles as are by this Act provided in regard to the original division.

Powers and duties of commission for delimiting electoral divisions.

42. (1) The joint commission constituted under section *thirty-eight*, and any subsequent commission appointed under the provisions of the last preceding section, shall submit to the Governor-General-in-Council—

(*a*) a list of electoral divisions, with the names given to them by the commission and a description of the boundaries of every such division:

(*b*) a map or maps showing the electoral divisions into which the provinces have been divided:

(*c*) such further particulars as they consider necessary.

(2) The Governor-General-in-Council may refer to the commission for its consideration any matter relating to such list or arising out of the powers or duties of the commission.

(3) The Governor-General-in-Council shall proclaim the names and boundaries of the electoral divisions as finally settled and certified by the commission, or a majority thereof, and thereafter, until there shall be a re-division, the electoral divisions as named and defined shall be the electoral divisions of the Union in the provinces.

(4) If any discrepancy shall arise between the description of the divisions and the aforesaid map or maps, the description shall prevail.

Date from which alteration of electoral divisions to take effect.

43. Any alteration in the number of members of the House of Assembly to be elected in the several provinces and any re-division of the provinces into electoral divisions, shall, in respect of the election of members of the House of Assembly, come into operation at the next general election held after the completion of the re-division or of any allocation consequent upon such alteration, and not earlier.

Qualifications of members of House of Assembly.

44. The qualifications of a member of the House of Assembly shall be as follows:

He must

(*a*) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;

(*b*) have resided for five years within the limits of the Union as existing at the time when he is elected;

(*c*) be a British subject of European descent.

For the purposes of this section, residence in a Colony before its incorporation in the Union shall be treated as residence in the Union.

Duration.

45. Every House of Assembly shall continue for five years from the first meeting thereof, and no longer, but may be sooner dissolved by the Governor-General.

Appointment and tenure of office of Speaker.

46. The House of Assembly shall, before proceeding to the dispatch of any other business, choose a member to be the Speaker of the House, and, as often as the office of Speaker becomes vacant, the House shall again choose a member to be the Speaker. The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing under his hand addressed to the Governor-General.

Deputy-Speaker.

47. Prior to or during the absence of the Speaker, the House of Assembly may choose a member to perform his duties in his absence.

Resignation of members.

48. A member may, by writing under his hand addressed to the Speaker, or, if there is no Speaker, or if the Speaker is absent from the Union, to the Governor-General, resign his seat, which shall thereupon become vacant.

Quorum.

49. The presence of at least thirty members of the House of Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers.

Voting in House of Assembly.

50. All questions in the House of Assembly shall be determined by a majority of votes of members present other than the Speaker or the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

Both Houses of Parliament.

Oath or affirmation of allegiance.

51. Every senator and every member of the House of Assembly shall, before taking his seat, make and subscribe before the Governor-General, or some person authorized by him, an oath or affirmation of allegiance in the following form:—

Oath.

I, A.B., do swear that I will be faithful and bear true allegiance to His Majesty [*here insert the name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being*] His [*or Her*] heirs and successors according to law. So help me God.

Affirmation.

I, *A.B.*, do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to His Majesty [*here insert the name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being*] His [*or Her*] heirs and successors according to law.

Member of either House disqualified for being member of the other House.

52. A member of either House of Parliament shall be incapable of being chosen or of sitting as a member of the other House: Provided that every Minister of State who is a member of either House of Parliament shall have the right to sit and speak in the Senate and the House of Assembly, but shall vote only in the House of which he is a member.

Disqualifications for being a member of either House.

53. No person shall be capable of being chosen or of sitting as a senator or as a member of the House of Assembly who

(*a*) has been at any time convicted of any crime or offence for which he shall have been sentenced to imprisonment without the option of a fine for a term of not less than twelve months, unless he shall have received a grant of amnesty or a free pardon, or unless such imprisonment shall have expired at least five years before the date of his election; or

(*b*) is an unrehabilitated insolvent; or

(*c*) is of unsound mind, and has been so declared by a competent court; or

(*d*) holds any office of profit under the Crown within the Union: Provided that the following persons shall not be deemed to hold an office of profit under the Crown for the purposes of this sub-section:

(1) a Minister of State for the Union;

(2) a person in receipt of a pension from the Crown;

(3) an officer or member of His Majesty's naval or military forces on retired or half-pay, or an officer or member of the naval or military forces of the Union whose services are not wholly employed by the Union.

Vacation of seats.

54. If a senator or member of the House of Assembly

(*a*) becomes subject to any of the disabilities mentioned in the last preceding section; or

(*b*) ceases to be qualified as required by law; or

(*c*) fails for a whole ordinary session to attend without the special leave of the Senate or the House of Assembly, as the case may be;

his seat shall thereupon become vacant.

Penalty for sitting or voting when disqualified.

55. If any person who is by law incapable of sitting as a senator or member of the House of Assembly shall, while so disqualified and knowing or having reasonable grounds for knowing that he is so disqualified, sit or vote as a member of the Senate or the House of Assembly he shall be liable to a penalty of one hundred pounds for each day on which he shall so sit or vote, to be recovered on behalf of the Treasury of the Union by action in any Superior Court of the Union.

Allowances of members.

56. Each senator and each member of the House of Assembly shall, under such rules as shall be framed by Parliament, receive an allowance of four hundred pounds a year.

to be reckoned from the date on which he takes his seat: Provided that for every day of the session on which he is absent there shall be deducted from such allowance the sum of three pounds: Provided further that no such allowance shall be paid to a Minister receiving a salary under the Crown or to the President of the Senate or the Speaker of the House of Assembly. A day of the session shall mean in respect of a member any day during a session on which the House of which he is a member or any committee of which he is a member meets.

Privileges of Houses of Parliament.

57. The powers, privileges, and immunities of the Senate and of the House of Assembly and of the members and committees of each House shall, subject to the provisions of this Act, be such as are declared by Parliament, and until declared shall be those of the House of Assembly of the Cape of Good Hope and of its members and committees at the establishment of the Union.

Rules of procedure.

58. Each House of Parliament may make rules and orders with respect to the order and conduct of its business and proceedings. Until such rules and orders shall have been made the rules and orders of the Legislative Council and House of Assembly of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply to the Senate and the House of Assembly respectively. If a joint sitting of both Houses of Parliament is required under the provisions of this Act, it shall be convened by the Governor-General by message to both Houses. At any such joint sitting the Speaker of the House of Assembly shall preside, and the rules of the House of Assembly shall, as far as practicable, apply.

Powers of Parliament.

Powers of Parliament.

59. Parliament shall have full power to make laws for the peace, order, and good government of the Union.

Money Bills.

60. (1) Bills appropriating revenue or moneys or imposing taxation shall originate only in the House of Assembly. But a Bill shall not be taken to appropriate revenue or moneys or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties.

(2) The Senate may not amend any Bills so far as they impose taxation or appropriate revenue or moneys for the services of the Government.

(3) The Senate may not amend any Bills so as to increase any proposed charges or burden on the people.

Appropriation Bills.

61. Any Bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

Recomendation of money votes.

62. The House of Assembly shall not originate or pass any vote, resolution, address, or Bill for the appropriation of any part of the public revenue or of any tax or impost to any purpose unless such appropriation has been recommended by

message from the Governor-General during the session in which such vote, resolution, address, or Bill is proposed.

Disagreements between the two Houses.

63. If the House of Assembly passes any Bill and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Assembly will not agree, and if the House of Assembly in the next session again passes the Bill with or without any amendments which have been made or agreed to by the Senate and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, the Governor-General may during that session convene a joint sitting of the members of the Senate and House of Assembly. The members present at any such joint sitting may deliberate, and shall vote together upon the Bill as last proposed by the House of Assembly, and upon amendments, if any, which have been made therein by one House of Parliament, and not agreed to by the other; and any such amendments which are affirmed by a majority of the total number of the members of the Senate and House of Assembly present at such sitting shall be taken to have been carried, and if the Bill with the amendments, if any, is affirmed by a majority of the members of the Senate and House of Assembly present at such sitting, it shall be taken to have been duly passed by both Houses of Parliament: Provided that, if the Senate shall reject or fail to pass any Bill dealing with the appropriation of revenue or moneys for the public service, such joint sitting may be convened during the same session in which the Senate so rejects or fails to pass such Bill.

Royal Assent to Bills.

64. When a Bill is presented to the Governor-General for the King's Assent, he shall declare according to his discretion, but subject to the provisions of this Act, and to such instructions as may from time to time be given in that behalf by the King, that he assents in the King's name, or that he withholds assent, or that he reserves the Bill for the signification of the King's pleasure. All Bills repealing or amending this section or any of the provisions of Chapter IV. under the heading "House of Assembly," and all Bills abolishing provincial councils or abridging the powers conferred on provincial councils under section *eighty-five*, otherwise than in accordance with the provisions of that section, shall be so reserved. The Governor-General may return to the House in which it originated any Bill so presented to him, and may transmit therewith any amendments which he may recommend, and the House may deal with the recommendation.

Disallowance of Bills.

65. The King may disallow any law within one year after it has been assented to by the Governor-General, and such disallowance, on being made known by the Governor-General by speech or message to each of the Houses of Parliament or by proclamation, shall annul the law from the day when the disallowance is so made known.

Reservation of Bills.

66. A Bill reserved for the King's pleasure shall not have any force unless and until within one year from the day on which it was presented to the Governor-General for the King's Assent,

the Governor-General makes known by speech or message to each of the Houses of Parliament or by proclamation that it has received the King's Assent.

Signature and enrolment of Acts.

67. As soon as may be after any law shall have been assented to in the King's name by the Governor-General, or having been reserved for the King's pleasure shall have received his assent, the Clerk of the House of Assembly shall cause two fair copies of such law, one being in the English and the other in the Dutch language (one of which copies shall be signed by the Governor-General), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of every such law, and in case of conflict between the two copies thus deposited that signed by the Governor-General shall prevail.

V. *The Provinces.*

Administrators.

Appointment and tenure of office of provincial administrators.

68. (1) In each province there shall be a chief executive officer appointed by the Governor-General-in-Council, who shall be styled the administrator of the province, and in whose name all executive acts relating to provincial affairs therein shall be done.

(2) In the appointment of the administrator of any province, the Governor-General-in-Council shall, as far as practicable, give preference to persons resident in such province.

(3) Such administrator shall hold office for a term of five years, and shall not be removed before the expiration thereof except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(4) The Governor-General-in-Council may from time to time appoint a deputy-administrator to execute the office and functions of the administrator during his absence, illness or other inability.

Salaries of Administrators.

69. The salaries of the administrators shall be fixed and provided by Parliament, and shall not be reduced during their respective terms of office.

Provincial Councils.

Constitution of provincial councils.

70. (1) There shall be a provincial council in each province, consisting of the same number of members as are elected in the province for the House of Assembly: Provided that, in any province whose representatives in the House of Assembly shall be less than twenty-five in number, the provincial council shall consist of twenty-five members.

(2) Any person qualified to vote for the election of members of the provincial council shall be qualified to be a member of such council.

Election of provincial councillors.

71. (1) The members of the provincial council shall be elected by the persons qualified to vote for the election of members of the House of Assembly in the province voting in the same electoral divisions as are delimited for the election of members of the House of Assembly: Provided that, in any province in which less than twenty-five members are elected to the House of Assembly, the delimitation of the electoral divisions, and any necessary re-allocation of members or adjustment of electoral divisions shall be effected by the same commission and on the same principles as are prescribed in regard to the electoral divisions for the House of Assembly.

(2) Any alteration in the number of members of the provincial council, and any re-division of the province into electoral divisions, shall come into operation at the next general election for such council held after the completion of such re-division, or of any allocation consequent upon such alteration, and not earlier.

(3) The election shall take place at such times as the administrator shall by proclamation direct, and the provisions of section *thirty-seven* applicable to the election of members of the House of Assembly shall *mutatis mutandis* apply to such elections.

Application of sections fifty-three to fifty-five to provincial councillors.

72. The provisions of sections *fifty-three*, *fifty-four*, and *fifty-five*, relative to members of the House of Assembly, shall *mutatis mutandis* apply to members of the provincial councils: Provided that any member of a provincial council who shall become a member of either House of Parliament shall thereupon cease to be a member of such provincial council.

Tenure of office by provincial councillors.

73. Each provincial council shall continue for three years from the date of its first meeting, and shall not be subject to dissolution save by effluxion of time.

Sessions of provincial councils.

74. The administrator of each province shall by proclamation fix such times for holding the sessions of the provincial councils as he may think fit and may from time to time prorogue such council: Provided that there shall be a session of every provincial council once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the council in one session and its first sitting in the next session.

Chairmen of provincial councils and rules of procedure.

75. The provincial council shall elect from among its members a chairman, and may make rules for the conduct of its proceedings. Such rules shall be transmitted by the administrator to the Governor-General, and shall have full force and effect unless and until the Governor-General-in-Council shall express his disapproval thereof in writing addressed to the administrator.

Allowances of provincial councillors.

76. The members of the provincial council shall receive such allowances as shall be determined by the Governor-General-in-Council.

77. There shall be freedom of speech in the provincial council, and no member shall be liable to any action or proceeding in any court by reason of his speech or vote in such council. Freedom of speech in provincial councils.

Executive Committees.

78. (1) Each provincial council shall at its first meeting after any general election elect from among its members, or otherwise, four persons to form with the administrator, who shall be chairman, an executive committee for the province. The members of the executive committee other than the administrator shall hold office until the election of their successors in the same manner. Provincial executive committees.

(2) Such members shall receive such remuneration as the provincial council, with the approval of the Governor-General-in-Council, shall determine.

(3) A member of the provincial council shall not be disqualified from sitting as a member by reason of his having been elected as a member of the executive committee.

(4) Any casual vacancy arising in the executive committee shall be filled by election by the provincial council if then in session, or, if the council is not in session, by a person appointed by the executive committee to hold office temporarily pending an election by the council.

79. The administrator and any other member of the executive committee of a province, not being a member of the provincial council, shall have the right to take part in the proceedings of the council, but shall not have the right to vote. Right of administrator, etc., to take part in proceedings of provincial council.

80. The executive committee shall on behalf of the provincial council carry on the administration of provincial affairs. Until the first election of members to serve on the executive committee, such administration shall be carried on by the administrator. Whenever there are not sufficient members of the executive committee to form a quorum according to the rules of the committee, the administrator shall, as soon as practicable, convene a meeting of the provincial council for the purpose of electing members to fill the vacancies, and until such election the administrator shall carry on the administration of provincial affairs. Powers of provincial executive committees.

81. Subject to the provisions of this Act, all powers, authorities, and functions which at the establishment of the Union are in any of the Colonies vested in or exercised by the Governor or the Governor-in-Council, or any Minister of the Colony, shall after such establishment be vested in the executive committee of the province so far as such powers, authorities, and functions relate to matters in respect of which the provincial council is competent to make ordinances. Transfer of powers to provincial executive committees.

82. Questions arising in the executive committee shall be determined by a majority of votes of the members present, and, in case of an equality of votes, the administrator shall have also a casting vote. Subject to the approval of the Governor-General-in-Council, the executive committee may make rules for the conduct of its proceedings. Voting in executive committees.

Appointment of officers by executive committees.

83. Subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of public officers, the executive committee shall have power to appoint such officers as may be necessary, in addition to officers assigned to the province by the Governor-General-in-Council under the provisions of this Act to carry out the services entrusted to them and to make and enforce regulations for the organisation and discipline of such officers.

Power of administrator to act on behalf of Governor-General-in-Council.

84. In regard to all matters in respect of which no powers are reserved or delegated to the provincial council, the administrator shall act on behalf of the Governor-General-in-Council when required to do so, and in such matters the administrator may act without reference to the other members of the executive committee.

Powers of Provincial Councils.

Powers of provincial councils.

85. Subject to the provisions of this Act and the assent of the Governor-General-in-Council as hereinafter provided, the provincial council may make ordinances in relation to matters coming within the following classes of subjects (that is to say):—

(i) Direct taxation within the province in order to raise a revenue for provincial purposes:

(ii) The borrowing of money on the sole credit of the province with the consent of the Governor-General-in-Council and in accordance with regulations to be framed by Parliament:

(iii) Education, other than higher education, for a period of five years and thereafter until Parliament otherwise provides:

(iv) Agriculture to the extent and subject to the conditions to be defined by Parliament:

(v) The establishment, maintenance, and management of hospitals and charitable institutions:

(vi) Municipal institutions, divisional councils, and other local institutions of a similar nature:

(vii) Local works and undertakings within the province other than railways and harbours and other than such works as extend beyond the borders of the province, and subject to the power of Parliament to declare any work a national work and to provide for its construction by arrangement with the provincial council or otherwise:

(viii) Roads, outspans, ponts, and bridges, other than bridges connecting two provinces:

(ix) Markets and pounds:

(x) Fish and game preservation:

(xi) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law or any ordinance of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section:

(xii) Generally all matters which, in the opinion of the Governor-General-in-Council, are of a merely local or private nature in the province:

(xiii) All other subjects in respect of which Parliament shall by any law delegate the power of making ordinances to the provincial council.

Effect of provincial ordinances.

86. Any ordinance made by a provincial council shall have effect in and for the province as long and as far only as it is not repugnant to any Act of Parliament.

Recommendations to Parliament.

87. A provincial council may recommend to Parliament the passing of any law relating to any matter in respect of which such council is not competent to make ordinances.

Power to deal with matters proper to be dealt with by private Bill legislation.

88. In regard to any matter which requires to be dealt with by means of a private Act of Parliament, the provincial council of the province to which the matter relates may, subject to such procedure as shall be laid down by Parliament, take evidence by means of a Select Committee or otherwise for and against the passing of such law, and, upon receipt of a report from such council, together with the evidence upon which it is founded, Parliament may pass such Act without further evidence being taken in support thereof.

Constitution of provincial revenue fund.

89. A provincial revenue fund shall be formed in every province, into which shall be paid all revenues raised by or accruing to the provincial council and all moneys paid over by the Governor-General-in-Council to the provincial council. Such fund shall be appropriated by the provincial council by ordinance for the purposes of the provincial administration generally, or, in the case of moneys paid over by the Governor-General-in-Council for particular purposes, then for such purposes but no such ordinance shall be passed by the provincial council unless the administrator shall have first recommended to the council to make provision for the specific service for which the appropriation is to be made. No money shall be issued from the provincial revenue fund except in accordance with such appropriation and under warrant signed by the administrator: Provided that, until the expiration of one month after the first meeting of the provincial council, the administrator may expend such moneys as may be necessary for the services of the province.

Assent to provincial ordinances.

90. When a proposed ordinance has been passed by a provincial council it shall be presented by the administrator to the Governor-General-in-Council for his assent. The Governor-General-in-Council shall declare within one month from the presentation to him of the proposed ordinance that he assents thereto, or that he withholds assent, or that he reserves the proposed ordinance for further consideration. A proposed ordinance so reserved shall not have any force unless and until within one year from the day on which it was presented to the Governor-General-in-Council, he makes known by proclamation that it has received his assent.

Effect and enrolment of ordinances.

91. An ordinance assented to by the Governor-General-in-Council and promulgated by the administrator shall, subject

to the provisions of this Act, have the force of law within the province. The administrator shall cause two fair copies of every such ordinance, one being in the English and the other in the Dutch language (one of which copies shall be signed by the Governor-General), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of such ordinance, and, in case of conflict between the two copies thus deposited, that signed by the Governor-General shall prevail.

Miscellaneous.

Audit of provincial accounts.

92. (1) In each province there shall be an auditor of accounts to be appointed by the Governor-General-in-Council.

(2) No such auditor shall be removed from office except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, and, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(3) Each such auditor shall receive out of the Consolidated Revenue Fund such salary as the Governor-General-in-Council, with the approval of Parliament, shall determine.

(4) Each such auditor shall examine and audit the accounts of the province to which he is assigned subject to such regulations and orders as may be framed by the Governor-General-in-Council and approved by Parliament, and no warrant signed by the administrator authorising the issuing of money shall have effect unless countersigned by such auditor.

Continuation of powers of divisional and municipal councils.

93. Notwithstanding anything in this Act contained, all powers, authorities, and functions lawfully exercised at the establishment of the Union by divisional or municipal councils, or any other duly constituted local authority, shall be and remain in force until varied or withdrawn by Parliament or by a provincial council having power in that behalf.

Seats of provincial government.

94. The seats of provincial government shall be—

For the Cape of Good Hope ...	Capetown.
For Natal	Pietermaritzburg.
For the Transvaal	Pretoria.
For the Orange Free State	Bloemfontein.

VI. *The Supreme Court of South Africa.*

Constitution of Supreme Court.

95. There shall be a Supreme Court of South Africa consisting of a Chief Justice of South Africa, the ordinary judges of appeal, and the other judges of the several divisions of the Supreme Court of South Africa in the provinces.

Appellate Division of Supreme Court.

96. There shall be an Appellate Division of the Supreme Court of South Africa, consisting of the Chief Justice of South Africa, two ordinary judges of appeal, and two additional judges of appeal. Such additional judges of appeal

shall be assigned by the Governor-General-in-Council to the Appellate Division from any of the provincial or local divisions of the Supreme Court of South Africa, but shall continue to perform their duties as judges of their respective divisions when their attendance is not required in the Appellate Division.

Filling of temporary vacancies in Appellate Division.

97. The Governor-General-in-Council may, during the absence, illness, or other incapacity of the Chief Justice of South Africa, or of any ordinary or additional judge of appeal, appoint any other judge of the Supreme Court of South Africa to act temporarily as such chief justice, ordinary judge of appeal, or additional judge of appeal, as the case may be.

Constitution of provincial and local divisions of Supreme Court.

98. (1) The several supreme courts of the Cape of Good Hope, Natal and the Transvaal, and the High Court of the Orange River Colony shall, on the establishment of the Union, become provincial divisions of the Supreme Court of South Africa within their respective provinces, and shall each be presided over by a judge-president.

(2) The court of the eastern districts of the Cape of Good Hope, the High Court of Griqualand, the High Court of Witwatersrand, and the several circuit courts, shall become local divisions of the Supreme Court of South Africa within the respective areas of their jurisdiction as existing at the establishment of the Union.

(3) The said provincial and local divisions, referred to in this Act as superior courts shall, in addition to any original jurisdiction exercised by the corresponding courts of the Colonies at the establishment of the Union, have jurisdiction in all matters—

(*a*) in which the Government of the Union or a person suing or being sued on behalf of such Government is a party;

(*b*) in which the validity of any provincial ordinance shall come into question.

(4) Unless and until Parliament shall otherwise provide, the said superior courts shall *mutatis mutandis* have the same jurisdiction in matters affecting the validity of elections of members of the House of Assembly and provincial councils as the corresponding courts of the Colonies have at the establishment of the Union in regard to parliamentary elections in such Colonies respectively.

Continuation in office of existing judges.

99. All judges of the supreme courts of the Colonies, including the High Court of the Orange River Colony, holding office at the establishment of the Union shall on such establishment become judges of the Supreme Court of South Africa, assigned to the divisions of the Supreme Court in the respective provinces, and shall retain all such rights in regard to salaries and pensions as they may possess at the establishment of the Union. The Chief Justices of the Colonies holding office at the establishment of the Union shall on such establishment become the Judges-President of the divisions of the Supreme Court in the respective provinces, but shall so long

as they hold that office retain the title of Chief Justice of their respective provinces.

Appointment and remuneration of judges.

100. The Chief Justice of South Africa, the ordinary judges of appeal, and all other judges of the Supreme Court of South Africa to be appointed after the establishment of the Union, shall be appointed by the Governor-General-in-Council, and shall receive such remuneration as Parliament shall prescribe, and their remuneration shall not be diminished during their continuance in office.

Tenure of office by judges.

101. The Chief Justice of South Africa and other judges of the Supreme Court of South Africa shall not be removed from office except by the Governor-General-in-Council on an address from both Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity.

Reduction in number of judges.

102. Upon any vacancy occurring in any division of the Supreme Court of South Africa, other than the Appellate Division, the Governor-General-in-Council may, in case he shall consider that the number of judges of such court may with advantage to the public interests be reduced, postpone filling the vacancy until Parliament shall have determined whether such reduction shall take place.

ppeals to ppellate ivision.

103. In every civil case in which, according to the law in force at the establishment of the Union, an appeal might have been made to the Supreme Court of any of the Colonies from a superior court in any of the Colonies, or from the High Court of Southern Rhodesia, the appeal shall be made only to the Appellate Division, except in cases of orders or judgments given by a single judge, upon applications by way of motion or petition or on summons for provisional sentence or judgments as to costs only, which by law are left to the discretion of the court. The appeal from any such orders or judgments, as well as any appeal in criminal cases from any such superior court, or the special reference by any such court of any point of law in a criminal case, shall be made to the provincial division corresponding to the court which before the establishment of the Union would have had jurisdiction in the matter. There shall be no further appeal against any judgment given on appeal by such provincial division except to the Appellate Division, and then only if the Appellate Division shall have given special leave to appeal.

Existing appeals.

104. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from the Supreme Court of any of the Colonies or from the High Court of the Orange River Colony to the King-in-Council, the appeal shall be made only to the Appellate Division: Provided that the right of appeal in any civil suit shall not be limited by reason only of the value of the matter in dispute or the amount claimed or awarded in such suit.

Appeals from inferior courts to provincial divisions

105. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from a court of resident magistrate or other inferior court to a

superior court in any of the Colonies, the appeal shall be made to the corresponding division of the Supreme Court of South Africa; but there shall be no further appeal against any judgment given on appeal by such division except to the Appellate Division, and then only if the Appellate Division shall have given special leave to appeal.

Provisions as to appeals to the King-in-Council.

106. There shall be no appeal from the Supreme Court of South Africa or from any division thereof to the King-in-Council, but nothing herein contained shall be construed to impair any right which the King-in-Council may be pleased to exercise to grant special leave to appeal from the Appellate Division to the King-in-Council. Parliament may make laws limiting the matters in respect of which such special leave may be asked, but Bills containing any such limitation shall be reserved by the Governor-General for the signification of His Majesty's pleasure: Provided that nothing in this section shall affect any right of appeal to His Majesty-in-Council from any judgment given by the Appellate Division of the Supreme Court under or in virtue of the Colonial Courts of Admiralty Act, 1890. 53 & 54 Vict., c. 27.

Rules of procedure in Appellate Division.

107. The Chief Justice of South Africa and the ordinary judges of appeal may, subject to the approval of the Governor-General-in-Council, make rules for the conduct of the proceedings of the Appellate Division and prescribing the time and manner of making appeals thereto. Until such rules shall have been promulgated, the rules in force in the Supreme Court of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply.

Rules of procedure in provincial and local divisions.

108. The Chief Justice and other judges of the Supreme Court of South Africa may, subject to the approval of the Governor-General-in-Council, frame rules for the conduct of the proceedings of the several provincial and local divisions. Until such rules shall have been promulgated, the rules in force at the establishment of the Union in the respective courts which become divisions of the Supreme Court of South Africa shall continue to apply therein.

Place of sittings of Appellate Division.

109. The Appellate Division shall sit in Bloemfontein, but may from time to time for the convenience of suitors hold its sittings at other places within the Union.

Quorum for hearing appeals.

110. On the hearing of appeals from a court consisting of two or more judges, five judges of the Appellate Division shall form a quorum, but, on the hearing of appeals from a single judge, three judges of the Appellate Division shall form a quorum. No judge shall take part in the hearing of any appeal against the judgment given in a case heard before him.

Jurisdiction of Appellate Division.

111. The process of the Appellate Division shall run throughout the Union, and all its judgments or orders shall have full force and effect in every province, and shall be executed in like manner as if they were original judgments or orders of the provincial division of the Supreme Court of South Africa in such province.

Execution of processes of provincial divisions.

112. The registrar of every provincial division of the Supreme Court of South Africa, if thereto requested by any party in whose favour any judgment or order has been given or made by any other division, shall, upon the deposit with him of an authenticated copy of such judgment or order, and on proof that the same remains unsatisfied, issue a writ or other process for the execution of such judgment or order, and thereupon such writ or other process shall be executed in like manner as if it had been originally issued from the division of which he is registrar.

Transfer of suits from one provincial or local division to another.

113. Any provincial or local division of the Supreme Court of South Africa to which it may be made to appear that any civil suit pending therein may be more conveniently or fitly heard or determined in another division may order the same to be removed to such other division, and thereupon such last-mentioned division may proceed with such suit in like manner as if it had been originally commenced therein.

Registrar and officers of Appellate Division.

114. The Governor-General-in-Council may appoint a registrar of the Appellate Division and such other officers thereof as shall be required for the proper dispatch of the business thereof.

Advocates and attorneys.

115. (1) The laws regulating the admission of advocates and attorneys to practise before any superior court of any of the Colonies shall *mutatis mutandis* apply to the admission of advocates and attorneys to practise in the corresponding division of the Supreme Court of South Africa.

(2) All advocates and attorneys entitled at the establishment of the Union to practise in any superior court of any of the Colonies shall be entitled to practise as such in the corresponding division of the Supreme Court of South Africa.

(3) All advocates and attorneys entitled to practise before any provincial division of the Supreme Court of South Africa shall be entitled to practise before the Appellate Division.

Pending suits.

116. All suits, civil or criminal, pending in any superior court of any of the Colonies at the establishment of the Union shall stand removed to the corresponding division of the Supreme Court of South Africa, which shall have jurisdiction to hear and determine the same, and all judgments and orders of any superior court of any of the Colonies given or made before the establishment of the Union shall have the same force and effect as if they had been given or made by the corresponding division of the Supreme Court of South Africa. All appeals to the King-in-Council which shall be pending at the establishment of the Union shall be proceeded with as if this Act had not been passed.

VII. *Finance and Railways.*

Constitution of Consolidated Revenue Fund and Railway and Harbour Fund.

117. All revenues, from whatever source arising, over which the several Colonies have at the establishment of the Union power of appropriation, shall vest in the Governor-General-in-Council. There shall be formed a Railway and

Harbour Fund, into which shall be paid all revenues raised or received by the Governor-General-in-Council from the administration of the railways, ports, and harbours, and such fund shall be appropriated by Parliament to the purposes of the railways, ports and harbours in the manner prescribed by this Act. There shall also be formed a Consolidated Revenue Fund, into which shall be paid all other revenues raised or received by the Governor-General-in-Council, and such fund shall be appropriated by Parliament for the purposes of the Union in the manner prescribed by this Act, and subject to the charges imposed thereby.

Commission of inquiry into financial relations between Union and provinces.

118. The Governor-General-in-Council shall, as soon as may be after the establishment of the Union, appoint a commission, consisting of one representative from each province, and presided over by an officer from the Imperial Service, to institute an inquiry into the financial relations which should exist between the Union and the provinces. Pending the completion of that inquiry and until Parliament otherwise provides, there shall be paid annually out of the Consolidated Revenue Fund to the administrator of each province—

(*a*) an amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year, 1908-9, as voted by the Legislature of the corresponding colony during the year nineteen hundred and eight:

(*b*) such further sums as the Governor-General-in-Council may consider necessary for the due performance of the services and duties assigned to the provinces respectively.

Until such inquiry shall be completed and Parliament shall have made other provision, the executive committees in the several provinces shall annually submit estimates of their expenditure for the approval of the Governor-General-in-Council, and no expenditure shall be incurred by any executive committee which is not provided for in such approved estimates.

Security for existing public debts.

119. The annual interest of the public debts of the Colonies and any sinking funds constituted by law at the establishment of the Union shall form a first charge on the Consolidated Revenue Fund.

Requirements for withdrawal of money from funds.

120. No money shall be withdrawn from the Consolidated Revenue Fund or the Railway and Harbour Fund except under appropriation made by law. But, until the expiration of two months after the first meeting of Parliament, the Governor-General-in-Council may draw therefrom and expend such moneys as may be necessary for the public service, and for railway and harbour administration respectively.

Transfer of Colonial property to the Union.

121. All stocks, cash, bankers' balances, and securities for money belonging to each of the Colonies at the establishment of the Union shall be the property of the Union: Provided that the balances of any funds raised at the establishment of the Union by law for any special purposes in any of the Colonies shall be deemed to have been appropriated by Par-

liament for the special purposes for which they have been provided.

Crown lands, etc.

122. Crown lands, public works, and all property throughout the Union, movable or immovable, and all rights of whatever description belonging to the several Colonies at the establishment of the Union, shall vest in the Governor-General-in-Council subject to any debt or liability specifically charged thereon.

Mines and minerals.

123. All rights in and to mines and minerals, and all rights in connection with the searching for, working for, or disposing of, minerals or precious stones, which at the establishment of the Union are vested in the Government of any of the Colonies, shall on such establishment vest in the Governor-General-in-Council.

Assumption by Union of colonial debts.

124. The Union shall assume all debts and liabilities of the Colonies existing at its establishment, subject, notwithstanding any other provision contained in this Act, to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund, and other charges conferred on the creditors of any of the Colonies, and may, subject to such conditions and rights, convert, renew, or consolidate such debts.

Ports, harbours, and railways.

125. All ports, harbours, and railways belonging to the several Colonies at the establishment of the Union shall from the date thereof vest in the Governor-General-in-Council. No railway for the conveyance of public traffic, and no port, harbour, or similar work, shall be constructed without the sanction of Parliament.

Constitution of Railway and Harbour Board.

126. Subject to the authority of the Governor-General-in-Council, the control and management of the railways, ports, and harbours of the Union shall be exercised through a Board consisting of not more than three commissioners, who shall be appointed by the Governor-General-in-Council, and a minister of State, who shall be chairman. Each commissioner shall hold office for a period of five years, but may be reappointed. He shall not be removed before the expiration of his period of appointment, except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session. The salaries of the commissioners shall be fixed by Parliament and shall not be reduced during their respective terms of office.

Administration of railways, ports, and harbours.

127. The railways, ports, and harbours of the Union shall be administered on business principles, due regard being had to agricultural and industrial development within the Union and promotion, by means of cheap transport, of the settlement of an agricultural and industrial population in the inland portions of all provinces of the Union. So far as may be, the

total earnings shall be not more than are sufficient to meet the necessary outlays for working, maintenance, betterment, depreciation, and the payment of interest due on capital not being capital contributed out of railway or harbour revenue, and not including any sums payable out of the Consolidated Revenue Fund in accordance with the provisions of sections *one hundred and thirty* and *one hundred and thirty-one*. The amount of interest due on such capital invested shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund. The Governor-General-in-Council shall give effect to the provisions of this section as soon as and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of four years from the establishment of the Union. During such period, if the revenues accruing to the Consolidated Revenue Fund are insufficient to provide for the general service of the Union, and if the earnings accruing to the Railway and Harbour Fund are in excess of the outlays specified herein, Parliament may by law appropriate such excess or any part thereof towards the general expenditure of the Union, and all sums so appropriated shall be paid over to the Consolidated Revenue Fund.

Establishment of fund for maintaining uniformity of railway rates.

128. Notwithstanding anything to the contrary in the last preceding section, the Board may establish a fund out of railway and harbour revenue to be used for maintaining, as far as may be, uniformity of rates notwithstanding fluctuations in traffic.

Management of railway and harbour balances.

129. All balances standing to the credit of any fund established in any of the Colonies for railway or harbour purposes at the establishment of the Union shall be under the sole control and management of the Board, and shall be deemed to have been appropriated by Parliament for the respective purposes for which they have been provided.

Construction of harbour and railway works.

130. Every proposal for the construction of any port or harbour works or of any line of railway, before being submitted to Parliament, shall be considered by the Board, which shall report thereon, and shall advise whether the proposed works or line of railway should or should not be constructed. If any such works or line shall be constructed contrary to the advice of the Board, and if the Board is of opinion that the revenue derived from the operation of such works or line will be insufficient to meet the costs of working and maintenance, and of interest on the capital invested therein, it shall frame an estimate of the annual loss which, in its opinion, will result from such operation. Such estimate shall be examined by the Controller and Auditor-General, and when approved by him the amount thereof shall be paid over annually from the Consolidated Revenue Fund to the Railway and Harbour Fund: Provided that, if in any year the actual loss incurred, as calculated by the Board and certified by the Controller and Auditor-General, is less than the estimate framed by the Board, the amount paid over in respect of

that year shall be reduced accordingly so as not to exceed the actual loss incurred. In calculating the loss arising from the operation of any such work or line, the Board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

Making good of deficiencies in Railway and Harbour Fund in certain cases.

131. If the Board shall be required by the Governor-General-in-Council or under any Act of Parliament or resolution of both Houses of Parliament to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities, the Board shall at the end of each financial year present to Parliament an account approved by the Controller and Auditor-General, showing, as nearly as can be ascertained, the amount of the loss incurred by reason of the provision of such services and facilities, and such amount shall be paid out of the Consolidated Revenue Fund to the Railway and Harbour Fund.

Controller and Auditor-General.

132. The Governor-General-in-Council shall appoint a Controller and Auditor-General, who shall hold office during good behaviour: Provided that he shall be removed by the Governor-General-in-Council on an address praying for such removal presented to the Governor-General by both Houses of Parliament: Provided further that when Parliament is not in session the Governor-General-in-Council may suspend such officer on the ground of incompetence or misbehaviour; and, when and so often as such suspension shall take place, a full statement of the circumstances shall be laid before both Houses of Parliament within fourteen days after the commencement of its next session; and, if an address shall at any time during the session of Parliament be presented to the Governor-General by both Houses praying for the restoration to office of such officer, he shall be restored accordingly; and if no such address be presented the Governor-General shall confirm such suspension, and shall declare the office of Controller and Auditor-General to be, and it shall thereupon become, vacant. Until Parliament shall otherwise provide, the Controller and Auditor-General shall exercise such powers and functions and undertake such duties as may be assigned to him by the Governor-General-in-Council by regulations framed in that behalf.

Compensation of colonial capitals for diminution of prosperity.

133. In order to compensate Pietermaritzburg and Bloemfontein for any loss sustained by them in the form of diminution of prosperity or decreased rateable value by reason of their ceasing to be the seats of government of their respective Colonies, there shall be paid from the Consolidated Revenue Fund for a period not exceeding twenty-five years to the municipal councils of such towns a grant of two per centum per annum on their municipal debts, as existing on the thirty-first day of January nineteen hundred and nine, and as ascertained by the Controller and Auditor-General. The Commission appointed under section *one hundred and eighteen* shall, after

due inquiry, report to the Governor-General-in-Council what compensation should be paid to the municipal councils of Capetown and Pretoria for the losses, if any, similarly sustained by them. Such compensation shall be paid out of the Consolidated Revenue Fund for a period not exceeding twenty-five years, and shall not exceed one per centum per annum on the respective municipal debts of such towns as existing on the thirty-first January, nineteen hundred and nine, and as ascertained by the Controller and Auditor-General. For the purposes of this section Capetown shall be deemed to include the municipalities of Capetown, Green Point and Sea Point, Woodstock, Mowbray, and Rondebosch, Claremont, and Wynberg, and any grant made to Capetown shall be payable to the councils of such municipalities in proportion to their respective debts. One half of any such grants shall be applied to the redemption of the municipal debts of such towns respectively. At any time after the tenth annual grant has been paid to any of such towns the Governor-General-in-Council, with the approval of Parliament, may after due inquiry withdraw or reduce the grant to such town.

VIII. *General.*

Method of voting for senators, etc.

134. The election of senators and of members of the executive committees of the provincial councils as provided in this Act shall, whenever such election is contested, be according to the principle of proportional representation, each voter having one transferable vote. The Governor-General-in-Council, or, in the case of the first election of the Senate, the Governor-in-Council of each of the Colonies shall frame regulations prescribing the mehod of voting and of transferring and counting votes and the duties of returning officers in connection therewith, and such regulations or any amendments thereof after being duly promulgated shall have full force and effect unless and until Parliament shall otherwise provide.

Continuation of existing colonial laws.

135. Subject to the provisions of this Act, all laws in force in the several Colonies at the establishment of the Union shall continue in force in the respective provinces until repealed or amended by Parliament, or by the provincial councils in matters in respect of which the power to make ordinances is reserved or delegated to them. All legal commissions in the several Colonies at the establishment of the Union shall continue as if the Union had not been established.

Free trade throughout Union.

136. There shall be free trade throughout the Union, but until Parliament otherwise provides the duties of custom and of excise leviable under the laws existing in any of the Colonies at the establishment of the Union shall remain in force.

Equality of English and Dutch languages.

137. Both the English and Dutch languages shall be official languages of the Union, and shall be treated on a footing of equality, and possess and enjoy equal freedom, rights and privileges: all records, journals, and proceedings of Parlia-

ment shall be kept in both languages, and all Bills, Acts, and notices of general public importance or interest issued by the Government of the Union shall be in both languages.

Naturalization.

138. All persons who have been naturalized in any of the Colonies shall be deemed to be naturalized throughout the Union.

Administration of justice.

139. The administration of justice throughout the Union shall be under the control of a Minister of State, in whom shall be vested all powers, authorities, and functions which shall at the establishment of the Union be vested in the Attorneys-General of the Colonies, save and except all powers, authorities, and functions relating to the prosecution of crimes and offences, which shall in each province be vested in an officer to be appointed by the Governor-General-in-Council, and styled the Attorney-General of the province, who shall also discharge such other duties as may be assigned to him by the Governor-General-in-Council: Provided that in the province of the Cape of Good Hope the Solicitor-General for the Eastern Districts and the Crown Prosecutor for Griqualand West shall respectively continue to exercise the powers and duties by law vested in them at the time of the establishment of the Union.

Existing officers.

140. Subject to the provisions of the next succeeding section, all officers of the public service of the Colonies shall at the establishment of the Union become officers of the Union.

Commission for reorganization of public departments.

141. (1) As soon as possible after the establishment of the Union, the Governor-General-in-Council shall appoint a public service commission to make recommendations for such reorganisation and readjustment of the departments of the public service as may be necessary. The commission shall also make recommendations in regard to the assignment of officers to the several provinces.

(2) The Governor-General-in-Council may after such commission has reported assign from time to time to each province such officers as may be necessary for the proper discharge of the services reserved or delegated to it, and such officers on being so assigned shall become officers of the province. Pending the assignment of such officers, the Governor-General-in-Council may place at the disposal of the provinces the services of such officers of the Union as may be necessary.

(3) The provisions of this section shall not apply to any service or department under the control of the Railway and Harbour Board, or to any person holding office under the Board.

Public service commission.

142. After the establishment of the Union the Governor-General-in-Council shall appoint a permanent public service commission with such powers and duties relating to the appointment, discipline, retirement, and superannuation of public officers as Parliament shall determine.

Pensions of existing officers.

143. Any officer of the public service of any of the Colonies at the establishment of the Union who is not retained in the service of the Union or assigned to that of a province shall

be entitled to receive such pension, gratuity, or other compensation as he would have received in like circumstances if the Union had not been established.

Tenure of office of existing officers.

144. Any officer of the public service of any of the Colonies at the establishment of the Union who is retained in the service of the Union or assigned to that of a province shall retain all his existing and accruing rights, and shall be entitled to retire from the service at the time at which he would have been entitled by law to retire, and on the pension or retiring allowance to which he would have been entitled by law in like circumstances if the Union had not been established.

Existing officers not to be dismissed for ignorance of English or Dutch.

145. The services of officers in the public service of any of the Colonies at the establishment of the Union shall not be dispensed with by reason of their want of knowledge of either the English or Dutch language.

Compensation to exist ing Parliamentary officers who are not retained.

146. Any permanent officer of the Legislature of any of the Colonies who is not retained in the service of the Union, or assigned to that of any province, and for whom no provision shall have been made by such Legislature, shall be entitled to such pension, gratuity, or compensation as Parliament may determine.

Administration of native affairs, etc.

147. The control and administration of native affairs and of matters specially or differentially affecting Asiatics throughout the Union shall vest in the Governor-General-in-Council, who shall exercise all special powers in regard to native administration hitherto vested in the Governors of the Colonies or exercised by them as supreme chiefs, and any lands vested in the Governor or Governor and Executive Council of any Colony for the purpose of reserves for native locations shall vest in the Governor-General-in-Council, who shall exercise all special powers in relation to such reserves as may hitherto have been exercisable by any such Governor or Governor and Executive Council, and no lands set aside for the occupation of natives which cannot at the establishment of the Union be alienated except by an Act of the Colonial Legislature shall be alienated or in any way diverted from the purposes for which they are set apart except under the authority of an Act of Parliament.

Devolution on Union of rights and obligations under conventions.

148. (1) All rights and obligations under any conventions or agreements which are binding on any of the Colonies shall devolve upon the Union at its establishment.

(2) The provisions of the railway agreement between the Governments of the Transvaal, the Cape of Good Hope, and Natal, dated the second of February, nineteen hundred and nine, shall, as far as practicable, be given effect to by the Government of the Union.

IX. *New Provinces and Territories.*

Alteration of boundaries of provinces.

149. Parliament may alter the boundaries of any province, divide a province into two or more provinces, or form a new province out of provinces within the Union, on the petition

of the provincial council of every province whose boundaries are affected thereby.

Power to admit into Union territories administered by British South Africa Company.

150. The King, with the advice of the Privy Council, may on addresses from the Houses of Parliament of the Union admit into the Union the territories administered by the British South Africa Company on such terms and conditions as to representation and otherwise in each case as are expressed in the addresses and approved by the King, and the provisions of any Order-in-Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

Power to transfer to Union government of native territories.

151. The King, with the advice of the Privy Council, may, on addresses from the Houses of Parliament of the Union, transfer to the Union the government of any territories, other than the territories administered by the British South Africa Company, belonging to or under the protection of His Majesty, and inhabited wholly or in part by natives, and upon such transfer the Governor-General-in-Council may undertake the government of such territory upon the terms and conditions embodied in the Schedule to this Act.

X. *Amendment of Act.*

Amendment of Act.

152. Parliament may by law repeal or alter any of the provisions of this Act: Provided that no provision thereof, for the operation of which a definite period of time is prescribed, shall during such period be repealed or altered: And provided further that no repeal or alteration of the provisions contained in this section, or in sections *thirty-three* and *thirty-four* (until the number of members of the House of Assembly has reached the limit therein prescribed, or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period), or in sections *thirty-five* and *one hundred and thirty-seven*, shall be valid unless the Bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A Bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

SCHEDULE.

1. After the transfer of the government of any territory belonging to or under the protection of His Majesty, the Governor-General-in-Council shall be the legislative authority, and may by proclamation make laws for the peace, order, and good government of such territory: Provided that all such laws shall be laid before both Houses of Parliament within seven days after the issue of the proclamation or, if Parliament be not then sitting, within seven days after the beginning of the next session, and shall be effectual unless and until both Houses of Parliament shall by resolutions passed in the same

session request the Governor-General-in-Council to repeal the same, in which case they shall be repealed by proclamation.

2. The Prime Minister shall be charged with the administration of any territory thus transferred, and he shall be advised in the general conduct of such administration by a commission consisting of not fewer than three members with a secretary, to be appointed by the Governor-General-in-Council, who shall take the instructions of the Prime Minister in conducting all correspondence relating to the territories, and shall also under the like control have custody of all official papers relating to the territories.

3. The members of the commission shall be appointed by the Governor-General-in-Council, and shall be entitled to hold office for a period of ten years, but such period may be extended to successive further terms of five years. They shall each be entitled to a fixed annual salary, which shall not be reduced during the continuance of their term of office, and they shall not be removed from office except upon addresses from both Houses of Parliament passed in the same session praying for such removal. They shall not be qualified to become, or to be, members of either House of Parliament. One of the members of the commission shall be appointed by the Governor-General-in-Council as vice-chairman thereof. In case of the absence, illness, or other incapacity of any member of the commission, the Governor-General-in-Council may appoint some other fit and proper person to act during such absence, illness, or other incapacity.

4. It shall be the duty of the members of the commission to advise the Prime Minister upon all matters relating to the general conduct of the administration of, or the legislation for, the said territories. The Prime Minister, or another Minister of State nominated by the Prime Minister to be his deputy for a fixed period, or, failing such nomination, the vice-chairman shall preside at all meetings of the commission, and in case of an equality of votes shall have a casting vote. Two members of the commission shall form a quorum. In case the commission shall consist of four or more members, three of them shall form a quorum.

5. Any member of the commission who dissents from the decision of a majority shall be entitled to have the reasons for his dissent recorded in the minutes of the commission.

6. The members of the commission shall have access to all official papers concerning the territories, and they may deliberate on any matter relating thereto and tender their advice thereon to the Prime Minister.

7. Before coming to a decision on any matter relating either to the administration, other than routine, of the territories or to legislation therefor, the Prime Minister shall cause the papers relating to such matter to be deposited with the secretary to the commission, and shall convene a meeting of the commission for the purpose of obtaining its opinion on such matter.

8. Where it appears to the Prime Minister that the despatch of any communication or the making of any order is urgently required, the communication may be sent or order made, although it has not been submitted to a meeting of the commission or deposited for the perusal of the members thereof. In any such case the Prime Minister shall record the reasons for sending the communication or making the order, and give notice thereof to every member.

9. If the Prime Minister does not accept a recommendation of the commission, or proposes to take some action contrary to their advice, he shall state his views to the commission, who shall be at liberty to place on record the reasons in support of their recommendation or advice. This record shall be laid by the Prime Minister before the Governor-General-in-Council, whose decision in the matter shall be final.

10. When the recommendations of the commission have not been accepted by the Governor-General-in-Council, or action not in accordance with their advice has been taken by the Governor-General-in-Council, the Prime Minister, if thereto requested by the commission, shall lay the record of their dissent from the decision or action taken and of the reasons therefor before both Houses of Parliament, unless in any case the Governor-General-in-Council shall transmit to the commission a minute recording his opinion that the publication of such record and reasons would be gravely detrimental to the public interest.

11. The Governor-General-in-Council shall appoint a resident commissioner for each territory, who shall, in addition to such other duties as shall be imposed on him, prepare the annual estimates of revenue and expenditure for such territory, and forward the same to the secretary to the commission for the consideration of the commission and of the Prime Minister. A proclamation shall be issued by the Governor-General-in-Council, giving to the provisions for revenue and expenditure made in the estimates as finally approved by the Governor-General-in-Council the force of law.

12. There shall be paid into the Treasury of the Union all duties of customs levied on dutiable articles imported into and consumed in the territories, and there shall be paid out of the Treasury annually towards the cost of administration of each territory a sum in respect of such duties which shall bear to the total customs revenue of the Union in respect of each financial year the same proportion as the average amount of the customs revenue of such territory for the three completed financial years last preceding the taking effect of this Act bore to the average amount of the whole customs revenue for all the Colonies and territories included in the Union received during the same period.

13. If the revenue of any territory for any financial year shall be insufficient to meet the expenditure thereof, any amount required to make good the deficiency may, with the approval of the Governor-General-in-Council, and on such

terms and conditions and in such manner as with the like approval may be directed or prescribed, be advanced from the funds of any other territory. In default of any such arrangement, the amount required to make good any such deficiency shall be advanced by the Government of the Union. In case there shall be a surplus for any territory, such surplus shall in the first instance be devoted to the repayment of any sums previously advanced by any other territory, or by the Union Government to make good any deficiency in the revenue of such territory.

14. It shall not be lawful to alienate any land in Basutoland or any land forming part of the native reserves in the Bechuanaland Protectorate and Swaziland from the native tribes inhabiting those territories.

15. The sale of intoxicating liquor to natives shall be prohibited in the territories, and no provision giving facilities for introducing, obtaining, or possessing such liquor in any part of the territories less stringent than those existing at the time of transfer shall be allowed.

16. The custom, where it exists, of holding pitsos or other recognised forms of native assembly shall be maintained in the territories.

17. No differential duties or imposts on the produce of the territories shall be levied. The laws of the Union relating to customs and excise shall be made to apply to the territories.

18. There shall be free intercourse for the inhabitants of the territories with the rest of South Africa subject to the laws, including the pass laws, of the Union.

19. Subject to the provisions of this Schedule, all revenues derived from any territory shall be expended for and on behalf of such territory: Provided that the Governor-General-in Council may make special provision for the appropriation of a portion of such revenue as a contribution towards the cost of defence and other services performed by the Union for the benefit of the whole of South Africa, so, however, that that contribution shall not bear a higher proportion to the total cost of such services than that which the amount payable under paragraph 12 of this Schedule from the Treasury of the Union towards the cost of administration of the territory bears to the total customs revenue of the Union on the average of the three years immediately preceding the year for which the contribution is made.

20. The King may disallow any law made by the Governor-General-in-Council by proclamation for any territory within one year from the date of the proclamation, and such disallowance on being made known by the Governor-General by proclamation shall annul the law from the day when the disallowance is so made known.

21. The members of the commission shall be entitled to such pensions or superannuation allowances as the Governor-General-in-Council shall by proclamation provide, and the salaries and pensions of such members and all other expenses

of the commission shall be borne by the territories in the proportion of their respective revenues.

22. The rights as existing at the date of transfer of officers of the public service employed in any territory shall remain in force.

23. Where any appeal may by law be made to the King-in-Council from any court of the territories, such appeal shall, subject to the provisions of this Act, be made to the Appellate Division of the Supreme Court of South Africa.

24. The Commission shall prepare an annual report on the territories, which shall, when approved by the Governor-General-in-Council, be laid before both Houses of Parliament.

25. All Bills to amend or alter the provisions of this Schedule shall be reserved for the signification of His Majesty's pleasure.

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(*c*) referred to a Committee.
(*d*) dropped.
(*n*) negatived.
(*w*) withdrawn.

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